THE Freeman

IDEAS ON LIBERTY

SEPTEMBER 1966

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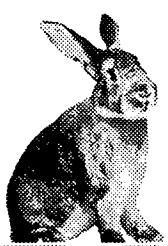

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THE FREEMAN

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Vol. 16, No. 9

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LEONARD E. READ *President,* Foundation for Economic Education

PAUL L. POIROT *Managing Editor*

THE FREEMAN is published monthly by the Foundation for Economic Education, Inc., a nonpolitical, nonprofit educational champion of private property, the free market, the profit and loss system, and limited government, founded in 1946, with offices at Irvington-on-Hudson, New York. Tel.: (914) 591-7230.

Any interested person may receive its publications for the asking. The costs of Foundation projects and services, including THE FREEMAN, are met through voluntary donations. Total expenses average $12.00 a year per person on the mailing list. Donations are invited in any amount—$5.00 to $10,000—as the means of maintaining and extending the Foundation's work.

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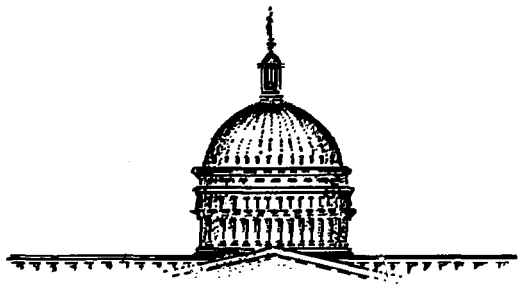
BEN MOREELL



THE SAFETY OF THE PEOPLE

IN LIGHT of the turmoil and chaos which now enmesh our nation, at home and abroad, and the consequent bewilderment of our people, it is important to review our policies and practices over the past half century to determine, if we can, the causes of the current confusion.

Starting practically "from scratch," we became, in little over a century, the greatest nation in recorded history in terms of spiritual stature, individual freedom, material productivity, cultural progress, biblical charity, and the security of our citizens and their property.

But, as we prospered, we lost sight of the fact that the blessings we enjoyed are not self-perpetuating, that they are premised on certain spiritual and cultural conditions which this generation did not create, which we inherited, and which we are losing! We are consuming our capital! That is the surest road to bankruptcy in business. And I am just as sure that our national well-being cannot outlast the current exhaustion of our spiritual and cultural capital!

In his classic work, *De Legibus*, Cicero, greatest of Rome's jurists

---

Admiral Moreell, Civil Engineer Corps, United States Navy (retired), was organizer of the famed Seabees of World War II, and served as Chairman of the Board of Jones and Laughlin Steel Corporation from 1947 to 1958.

This is a slight condensation of his June 4, 1966, address to the graduating class at Grove City College in Pennsylvania, of which he is a Trustee.

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and philosophers in the law, set forth this proposition:

"The safety of the people shall be the Highest Law."

That dictum stemmed from the concept that there is a Higher or Natural Law which transcends all man-made law. The idea originated with the ancient Greeks, was elaborated by Aristotle, and later adopted by the Stoics from whom it was taken over by Cicero and incorporated into the Roman law.

It was accepted by our Founding Fathers for inclusion in the Declaration of Independence, as evidenced by their avowed reliance on "the laws of Nature and of Nature's God" as sanction for their claim to that "separate and equal station – among the powers of the earth" to which a people is entitled when it becomes necessary – "to dissolve the political bands which have connected them with another."

Professor Edward S. Corwin, noted scholar and teacher of jurisprudence, in his essay, "The 'Higher Law' Background of American Constitutional Law," wrote:

> There are . . . certain principles of right and justice which are entitled to prevail of their own intrinsic excellence, altogether regardless of the attitude of those who wield the physical resources of the community. Such principles were made by no human hands. . . . They are external to all will as such and interpenetrate all reason as such. They are eternal and immutable. In relation to such principles, human laws are . . . merely a record or transcript, and their enactment an act not of will or power but one of discovery and declaration.

Later, with respect to the Ninth Amendment of the Constitution, which validates those rights of the people which are not specifically enumerated, he wrote:

> Such rights . . . owe nothing to their recognition in the Constitution. Such recognition was necessary if the Constitution was to be regarded as complete.
>
> Thus the legality of the Constitution, its supremacy, and its claim to be worshipped, alike find common standing ground on the belief in a law superior to human governors.

That concept was endorsed by the late President Hoover in his address to the 1956 Republican National Convention. He said:

> Those great documents of 180 years ago from our Founding Fathers must still be the foundation of our American way of life. . . .
>
> I have faith that there are principles which neither communism, nor socialism, nor neutralism, nor other evil ideas, nor even the march of time, can defeat. Those truths came into the world along with the shooting stars of which worlds are made. They are as inevitable as the exist-

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ence of the Supreme Being, the forces of gravity, and the ceaseless struggle of mankind to be free.

Limits for Man-Made Law

Those "principles of right and justice" fix the limits within which man-made law must function if we are to avoid doing violence to the higher law of Nature.

The Declaration defined those limits as follows:

> We hold these truths to be self-evident: That all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure those rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it and to institute new government. . . .

The preliminary drafts of the Declaration and contemporary documents make clear that the phrase "all men are created equal" was intended to denote equality before God and before the law, not an impossible equality of natural talents and consequent equality of material possessions. Similarly, it was intended that all men should be free to pursue happiness, the responsibility for catching up with it remaining with the pursuer. Happiness, per se, is not a natural right but something to be earned by individual effort, a concept which differs materially from that of "The Great Society" zealots who now steer our Ship of State.

Those basic principles were to establish the framework for a "government of laws and not of men." Our Central Government was to be one of strictly limited powers, specified in a written constitution. Furthermore, those powers were to be augmented, extended, eliminated, reduced, or redistributed only by the procedures prescribed in the Constitution itself, not by judicial interpretation, legislative mandate, executive decree, nor by arbitrary seizure which has no legislative sanction but is based on the theory that certain undefined powers inhere naturally in the presidency. All of these devices have been used in recent years by power-hungry and impatient government officials to rationalize their violations of constitutional prohibitions and limitation on their authority.

The texts of the Declaration and the Constitution, the debates in the Constitutional Convention, in the Congress and in the state legislatures, as well as contemporary records, notably the sermons of the colonial clergy, indicate

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general agreement that, broadly speaking, the functions of the Central Government should be limited to the following:

1. Protection of the citizens' lives, limbs, liberties, and livelihoods, that is, their honestly acquired property, against aggression from without and internal disorder;
2. Dispensation of equal justice under law; and
3. Keeping the records incident thereto.

Other than these, the people were to be free to pursue their own interests, provided this did not lead them to trespass on the rights of others.

It was held that such limitations on government powers could be effective only in a social order where there is a generally prevailing concept of the nature of the universe and how it is ordered, and the nature of man and his place in that universe; that concept being defined as follows:

1. Man has inherent and inalienable rights, bestowed on him by God, which are in conformity with universally valid and eternal moral laws;
2. All just government powers are derived from the citizens by voluntary delegation;
3. To avoid trespassing on the individual's rights, there must be a free market for goods, services, and ideas, into which government must not intrude except to protect those rights; and
4. For every natural right there are collateral responsibilities and moral duties, imposed on the individual, to make his conduct conform to the code set forth in such stern admonitions as The Ten Commandments, The Sermon on the Mount, and The Golden Rule.

On this foundation, our people erected the structure of a great social order which, until recent decades, stood as a beacon of hope for the future of all mankind.

Squandering Our Legacy

How well have we managed this heritage? I believe my generation has squandered its legacy. We have permitted the superstructure of this citadel of freedom to be ravaged and its foundations eroded to the point where there is danger of total collapse.

Our intense pursuit of profit and pleasure left little time or inclination to reflect on the dismal records of some great civilizations of the past, best exemplified by the tragic decline and fall of the Roman Empire. This debacle resulted when "the safety of the people" was no longer vested in obedience to "the Highest Law" but had given way to ruthless

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competition for political or economic power, an essential feature of which was corruption of the people by ever-increasing government largesse in the form of food, clothing, shelter, entertainment, "bread and circuses." These were the prototypes of our present-day multifaceted "war on poverty," publicly-financed stadiums, playgrounds, recreation areas, theaters, cultural centers, and a myriad of other "Great Society" subventions.

All of us must share the blame for this betrayal of our trust. Several years ago in a public address I reproached our national legislators for their seduction of the people by government "handouts." I received a letter from a prominent Senator, a friend of long standing, in which he said, "Don't be too hard on us. We give you the kind of government you demand – or will tolerate."

Over the past fifty years we have propagated a child-like faith in the competence of government to achieve any kind of material, economic, social, or moral purpose. Implementing this faith we have stood by, meekly, while government seized authority at an ever-increasing pace, centralizing it in Washington, where it would be shielded from the scrutiny of those from whom it had been taken; and this is always done under the pretext that it is solely for the good of the people!

But even more destructive is the fact that, as government functions today, decisions on matters of vital import to the security and well-being of our nation are most frequently taken in light of their probable political effects, rather than being based on purely economic, social, or national security considerations.

It has been said that the people never give up their liberties except under some delusion. In this case the delusion is that government which, after all, is operated by ordinary mortals like you and me, not by gods or supermen, has some superior competence in the realm of economics, some mysterious magic multiplier of wealth, some power to open the doors to a vast store of economic goods which can be had without working for them, merely by voting for them!

Few of us are completely immune to such delusions, or to the human passions which they arouse: apathy, fear, greed, and violence. But those who see the terminus of this "devil's highway" are duty bound to sound the alarm.

Let us look briefly at some areas where we have departed from our time-tested principles, and thus jeopardized "the safety of the people."

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The Evils of Inflation

Perhaps most obvious is the debauchery of our currency. Largely as the result of profligate spending and shiftless fiscal and monetary policies, at home and abroad, our gold reserve, intended to insure national solvency and to promote dynamic economic equilibrium, has been depleted to the point where our government resorts to frantic maneuvers in the international money marts to avoid devaluation of the dollar.

Our maudlin foreign aid programs have served principally to buttress unstable authoritarian and socialist governments, to line the pockets of dictators and their henchmen, and to subsidize cutthroat foreign competition with our own industries.

Our public debt is at an all-time high and increases each year. In addition, there are hidden obligations accumulated under the social security and government retirement systems, and as guarantees of mortgages and other indebtedness, which amount to hundreds of billions, the total of Central Government liabilities alone having been estimated recently at 1½ trillion dollars, that is, $1,500 billions, or $7,500.00 for every man, woman, and child in the nation!

The debts of states, subordinate units of government, and public "authorities," as well as private indebtedness have kept pace with that of the Central Government. Our nation is mortgaged to the hilt! And the process continues. Unbalanced national budgets have become a way of life. During the past five years the National Budget has averaged an annual deficit of $6.3 billions. Since 1939 inflation has reduced the purchasing power of our dollar to about 43 cents, with commensurate decreases in purchasing power of the peoples' savings accounts, pensions, insurance policies, annuities, and other fixed income investments.

Increases in the costs of replacing obsolete industrial equipment and for new equipment to expand production reflect the current inflation. These, together with our subsidization of foreign industries, have impaired our ability to compete in the world's markets, including even those of our own country, and thus to provide decent jobs for a rapidly growing working population.

The culprit that creates dollars out of thin air and pumps them into our economic blood-stream is our own out-of-bounds government. During the past five years our purchasing media (currency and checking accounts) have increased at an annual rate of more than 6 per cent, the highest for any such period since World War

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II. And the rate is increasing, the rate during the past year being 8.9 per cent.

But the harsh realities of politics will not permit government to admit its guilt. So government looks for a scapegoat, preferably one who will be a politically profitable whipping boy. In this case it is private industry, whose managers have tried earnestly to protect their owners' properties against inflationary erosions by proposing modest increases in the prices of their products.

The government propaganda machine is then turned on full-force in an effort to delude our people into believing that private industry is not the unfortunate victim of inflation but is the greedy villain who caused it!

Initially inflation weighs most heavily on the thrifty citizens who, largely through fixed income investments, have tried to provide a competence for their old age or security for their loved ones. But, eventually, it involves the entire nation. The resultant chaos can be ended only by dictatorship and ruthless suppression of the rights of the people. A dictator has been defined as the receiver for a nation gone bankrupt!

I have dwelt at some length on this subject because debauchery of the currency is so pervasive that, ultimately, no one can entirely escape its destructive effects. Our government, whose fiscal and monetary policies and practices induce inflation, stands guilty of flagrant violation of the Highest Law – thus jeopardizing the safety of the people!

The Crisis of Morals

Not unrelated to the debauchery of our currency is the national crisis of morals and moral courage.

Our national crime rates, notably crimes of violence, are skyrocketing, as are the rates of divorce, juvenile delinquency, illegitimate births, and family desertions. There are all-too-frequent evidences of corruption in high places in public and private life. We are demoralized by an apathetic acceptance of low standards of conduct of prominent persons and of the general public; an increasing tolerance of openly flaunted pornography in the theater, books, periodicals, recordings, movies, and television; the deterioration of family life; derision of religion and spiritual values; and downgrading of the individual as a responsible creature of God, sovereign in his natural rights, having personal worth and dignity, deserving of respect because he is self-respecting and respectable.

Our situation is more precarious because we do not receive support from those to whom we look for

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help. We urge people to go back to church; but there they frequently find that the forces which have undermined our traditional beliefs have infected the very source of those beliefs, the church itself!

Many of our prominent and articulate churchmen and some of our most influential church bodies favor socialization of our national life and urge that more power be placed in the hands of government. Others have sought to make the churches over into a political force to put pressure on legislators. Many to whom we look for guidance out of the morass of materialism and state-imposed humanism appear to have "made a deal" for a partnership between God and Caesar, with God cast in the role of a very junior partner.

Others assert with the assurance born of ignorance that "God is dead, and man has inherited his throne". . . . weak, witless, sinful man, frequently unable to resolve the problems of his own small household, but supremely confident of his competence to plan and direct the orderly functioning of the Cosmos!

Effective Leadership Stems from The Power of Example

I have long believed that personal example is the most powerful element of effective leadership, for good or for evil. A fair reading of the record leads to the conclusion that, in its role of Robin Hood, our giant government has provided the worst kind of moral leadership for our people. Robin Hood may have been impelled by the most altruistic of motives – but he was still a thief! Today the "powers that be" neatly gloss over the fact that when people vote for legislators who promise them "goodies" at the expense of those who worked to produce them, they become partners with government in thievery! More's the pity that such legalized larceny has the sanction of many high government officials who urge the voters to "come and get it!"

Many politicians now run for office on the platform, "I can get more from the government for you." But they do not mention what government must first take from you and others who produced the wealth. President Johnson had at least the virtue of frankness when he stated, "We are going to take from those who have and give it to the have-nots."

In a recent detailed study of socialist Sweden, commenting on public housing, the author wrote: "Here, as well as in other spheres, personal corruption and indifference to laws are the results of state intervention in the functioning of the free market economy."

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Civil Rights and Moral Wrongs

Our social order is subjected to massive stress as government seeks to impose legal curbs on freedom to use or dispose of one's property and the right to choose one's associates. Justifying the means they propose by the ends they seek, public officials and prominent private citizens, including many of our clergy, encourage violation of those laws which one does not like, as well as civil disobedience merely for its nuisance value, and illegal seizures of private property. All such acts constitute trespass on the rights of others and are "civil wrongs"! They point the way to anarchy and, ultimately, to dictatorship!

Our judiciary frequently shows excessive concern for the civil liberties of hardened criminals at the expense of the moral and legal rights of their innocent victims. Similar tolerance is displayed toward union officials who order or condone acts of violence on persons and property by their subordinates.

We appear to have reached the point where the only license we need for the perpetration of civil wrongs on a law-abiding and peaceful citizenry or for the obstruction of lawful commerce is willingness to join a picket line and carry a placard with a legend which heaps abuse on those who have incurred our displeasure!

Giant Government in Washington grows at the expense of state sovereignty and individual rights. The Central Government now owns more than 34 per cent of the land area within the boundaries of the fifty states, it owns and operates more than 3,000 tax-free commercial activities in competition with its own citizens, it dispenses more than 25 per cent of the national income, and it grows apace! Such massive intrusions into the affairs of the once sovereign states and of the people, many clearly in violation of the Constitution, impair economic freedom, discourage prudent venture capital, impede development of private enterprise, and compromise the safety of the people.

We appear to be suffering a paralysis of will which saps our courage, moral and physical. We are being transmuted from a God-fearing, energetic, self-reliant, confident, and venturesome people, free and independent, into a nation of timid dependents, insecure, apprehensive, fearful of incurring the displeasure and reprisals of our political masters to whom we are told to look for food, clothing, shelter, medical care, education, entertainment, and security from the cradle to the grave. And to receive those bounties, we need only surrender con-

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trol of our lives, our fortunes, and our sacred honor!

Our Foreign Policy

The emotions which paralyze our wills in domestic affairs have infected our courage and integrity when dealing with other nations. On the international scene, compromise of principle, appeasement of blustering bullies, support of cruel oppressors, intervention in the internal affairs of friendly nations, and surrender to blackmail, mark our conduct. Moral principle is sacrificed on the altar of expediency to achieve the promise of a dubious security. Any dictator who wishes to rub our nose in the dirt for political profit or personal pleasure does so with impunity, secure in the knowledge that when he is ready to trade we will buy him off with generous allocations of foreign aid.

Little wonder, then, that Khrushchev was quoted as having remarked on his return from his trip to America, "You spit in their faces and they smilingly wipe it away and say, 'The dew is very heavy today.'"

In the Vietnam war it appears that we are exerting every effort to avoid achieving a clear-cut victory in order to induce the communists to come to the bargaining table where the first installment of a generous payoff, budgeted at one billion dollars, awaits them! While the arrogant aggressor is leisurely making up his mind, we continue pouring men and material into the venture! Here one must ask, "What's wrong with victory, since victory is the only sure way to end both the aggression and the drain on our human and material resources? And if victory is politically inexpedient why not withdraw and end the blood-letting and the waste?"

We are not respected by our enemies, by the so-called neutrals, nor by our professed friends. In spite of generous concessions in all areas, "Yankee Go Home" has become an international slogan. Unruly mobs, unrestricted by police or other public authorities, attack our embassies, legations, consulates, libraries, and other installations and menace the safety of our representatives.

To show our complete confidence in the honor of dictators who have repeatedly repudiated their treaty obligations, our government has proposed a long-range program for total disarmament of all nations, in which we are now taking the lead, unilaterally.

I am under no illusion. I know that a Jeremiah is without honor, especially in his own country, when the people become servile and insensitive to moral wrongs under the narcotic effects of a false pros-

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perity, buttressed by massive government seductions and propaganda. But those who feel, as I do, that the safety of the people is in jeopardy are morally bound to say so.

The Way Ahead

Is there a way ahead which will take us out of this morass? Is there a way to recover the sanity and balance which once marked our life? I am sure there is, if we are willing to pay the price. But it is not by resort to political legerdemain. It is by beating our way upstream, against the swift-running current, to those moral and spiritual values upon which this nation was built. We must be born again of the spirit!

I do not mean to imply that there are no problems peculiar to the economic and political levels of our national life. But if men are not right at the deeper level, in their understanding of the nature of the universe and man's position therein, they can tinker with economic and political problems from now until doomsday and still come up with the wrong answers.

It is a case of putting first things first and the very first thing is a rehabilitation of our basic moral principles. Such an effort on our part will call forth the support of cosmic sanction, for God intended men to be free. "The God who gave us life gave us liberty at the same time," Jefferson observed. But we will need conviction, courage, tenacity, understanding, humility, compassion and, above all, faith, to set in motion what William James called "those tiny invisible, molecular moral forces which work from individual to individual, creeping in through the crannies of the world like so many soft rootlets, or like the capillary oozing of water, but which, if you give them time, will rend the hardest monuments of man's pride."

That is the way! May our Father in Heaven endow us with wisdom, strength, and courage to follow it! Our forebears did so under more oppressive conditions than those we face. We can do it, too, provided only that we have the will! That is your challenge and your opportunity! I pray you will make this your post-graduate mission and, if this be your resolve, that you will translate it into action that counts. St. James said: "Whoso looketh into the perfect law of liberty, and continueth therein, he being not a forgetful hearer, but a doer of the work, this man shall be blessed in his deed." ◈

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the Voice of a Brother's Blood

KENNETH W. SOLLITT

CAIN had slain his brother Abel. When asked by God where Abel was, Cain replied with an evasive question: "Am I my brother's keeper?" But God was not fooled as to Cain's guilt: "What have you done? The voice of your brother's blood is crying to me from the ground."

When we pause to remember those who have died in the service of their country – and are even now dying – what does the blood of our departed brothers cry out to us, whom war has thus far spared? Surely their blood must say something to us, but what is it?

Does it say, "The country for which we died is still worth fighting for"? or does it say, "We were wrong; no war is worth the cost"?

To be specific, should we have gone into Vietnam, or shouldn't we have done so? And now that we are there, is it our moral obligation to remain or to withdraw? I honestly don't know the answer, and the uncertainty is so disturbing that I almost envy those who can adopt one prejudice or another, then read or listen to only their side of the story and refuse to believe anything that conflicts with their opinions.

But of one thing I am certain. There is a cry I can hear distinctly. It is the voice of a brother's blood saying, "Our America and her way of life are worth LIVING for." Our salvation lies, not so much in dying for our ideals as in living for them. Perhaps if there were more people who would live for the things for which our sons and brothers are periodically asked to die, there would be less call for their sacrifice. Living for America and her way of life may be an even greater

This article is condensed from Dr. Sollitt's 1966 Memorial Day sermon at the First Baptist Church in Midland, Michigan.

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act of patriotism than dying for them.

It is because we will not live for our ideals that we are repeatedly called upon to die for them. We fight abroad for the right of self-determination, while at home we avoid doing for ourselves, or deciding for ourselves, everything we can get someone else to do or decide for us. We fight abroad for the right of free elections and then at home we offer our votes to the highest bidder in the election. We sacrifice our sons in battle to provide and to protect religious freedom while letting our religion deteriorate to the point where it isn't worth protecting. And when will we learn as a nation that we cannot worship in the sanctuary of Mammon without eventually sacrificing more sons and brothers on the altars of Mars? Surely if our ideas are worth dying for, they are worth living for.

Susan Coolidge said it best:

He serves his country best
Who lives pure life and doeth
righteous deed
And walks straight paths however
others stray
And leaves his sons, as uttermost
bequest,
A stainless record which all men
shall read;
This is the better way.

No drop but serves the slowly
lifting tide;
No dew but has some errand to
some flower;
No smallest star but sheds some
helpful ray,
And man by man, each helping all
the rest,
Make the firm bulwark of the
country's power;
There is no better way.

So let us start living for the things for which we ask them to die, such things as free enterprise and genuine self-government, honest work for honest wages, sobriety, integrity, morality, filled churches and empty jails, homes where men and women are faithful and children are taught by precept and example to reverence God and live pure lives.

"The voice of your brother's blood is crying to me from the ground" condemning us and saying, "You asked me to die for that for which you were unwilling to live!"

And back of the voice of our brothers' blood I hear the deep rumbling of the voice of God himself asking, "What have you done?" Happy is the man who can reply, "I, too, aspire to be a patriot, to live the life for which my brother so nobly gave his. May his ideals be perpetuated in me and translated into life." ◈

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Dr. Johnson's Defense of Property

STEPHEN R. VALLANCE

THE EIGHTEENTH century's Dr. Samuel Johnson lived at a time when the economic doctrine of common property (later developed intensively by Karl Marx) extended itself into the discussions of thinking men and into the teaching of children.

"You teach them," Johnson told a friend, "the community of goods; for which there are as many plausible arguments as for most erroneous doctrines. You teach them that all things at first were in common, and that no man had a right to any thing but as he laid his hands upon it; and that this still is, or ought to be, the rule amongst mankind. Here, Sir, you sap a great principle of society, – property."

It was from principle, not vested interest, that the author of the first English *Dictionary* defended property. Samuel Johnson had come to London in his early years accompanied by a former pupil of his, David Garrick, and between them they had only fourpence to start with in perhaps the only English city where one could raise his station. Both would strongly apply themselves: Johnson as a "drudge" with his dictionary and various other writings, Garrick

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Mr. Vallance was recently awarded a Joseph Medill Patterson scholarship in journalism at Fordham University.

The quotations in this article are from Boswell's *Life of Samuel Johnson* and from *Rambler* articles by Johnson dated April 17 and October 6, 1750.

Portrait of Samuel Johnson by John Opie. The Bettmann Archive.

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upon the stage where he would gain fame in the city's dramatic circles.

The fact, therefore, that Johnson achieved a degree of wealth both little and late testifies to his integrity when he dealt with the subject of property. What led Johnson to defend personal possession was his basic view of life.

The brilliant lexicographer took life as he saw it around him (there was no question here of guessing at man's antediluvian condition), and he viewed it as no easy journey. In a 1762 letter to a friend immigrating to America there is a notion that he would keep all his life:

"It is a melancholy consideration," he wrote, "that so much of our time is necessarily to be spent upon the care of living, and that we seldom can obtain ease in one respect but by resigning it in another; yet I suppose we are by this dispensation not less happy in the whole, than if the spontaneous bounty of Nature poured all that we want into our hands."

But, however much he might see the activity of living as a dreary task with little comfort even in bounty, poverty was no state to praise. The next year, when Johnson was 54 years old, he recalled in conversation his early years in London:

"When I was running about this town a very poor fellow, I was a great arguer for the advantages of poverty; but I was, at the same time, very sorry to be poor. Sir, all the arguments which are brought to represent poverty as no evil, show it to be evidently a great evil. You never find people labouring to convince you that you may live very happily upon a plentiful fortune.— So you hear people talking how miserable a king must be; and yet all wish to be in his place."

Wealth Not Everything

Here, Johnson was not proclaiming any great benefits to be derived from wealth but merely saying that man wishes to be happy and finds the possession of property a suitable prerequisite. However, Johnson would warn against too fervid a desire for riches, not so much because of a probable despair in not attaining them but more because even their attainment proved to be unsatisfactory. Johnson wrote about this desire in a semiweekly London magazine called *The Rambler* to which he regularly contributed:

"When therefore the desire of wealth is taking hold of the heart, let us look round and see how it operates upon those whose industry or fortune has obtained it. When we find them oppressed with their own abundance, luxurious

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without pleasure, idle without ease, impatient and querulous in themselves, and despised or hated by the rest of mankind, we shall soon be convinced that if the real wants of our condition are satisfied, there remains little to be fought with solicitude, or desired with eagerness."

So, Johnson was not one who saw in wealth or property a solution to man's pursuit of happiness. He, like his friend and fellow club member, Edmund Burke, felt the presence of an "unbought grace of life" and, besides, viewed the wealth he defended as a moral means (if not an always successful one) to a moral end.

Because this end, though moral, could not ensure happiness, Dr. Johnson tried to show to those who bewailed the unequal distribution of property that their cries were little justified.

In the same article in *The Rambler* he asked them to consider "that the inequality of distribution, at which we murmur, is for the most part less than it seems, and that the greatness, which we admire at a distance, has much fewer advantages, and much less splendour, when we are suffered to approach it."

This view, though it dismissed the argument that wealth made one man so much greater than another and therefore was not to be allowed, did not preclude a man's rising in the world or mean that he should be "kept in his place." In another issue of *The Rambler* Johnson without qualification agreed that a man's ability to rise should not be hindered:

"Every man ought to endeavour at eminence, not by pulling others down, but by raising himself, and enjoy the pleasure of his own superiority, whether imaginary or real, without interrupting others in the same felicity."

So this was Dr. Johnson's basic view of life: the necessity of meeting one's needs; the desire for wealth; the unsatisfactory nature of both wealth and poverty and the questionable argument for reducing their differences; finally, the ability to rise in life without hindrance. What of his defense of property against erroneous doctrines? A preamble can be seen above, and it can now be presented within the context of these other views.

Ownership in Common

It was in *The Rambler* again that Johnson questioned the soundness of common property as an idea and there reached a most simple conclusion — the idea just doesn't work out in the world as we know it:

"Community of possession must include spontaneity of production;

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for what is obtained by labour will be of right the property of him by whose labour it is gained. And while a rightful claim to pleasure or to affluence must be procured either by slow industry or uncertain hazard, there will always be multitudes whom cowardice or impatience incite to more safe and more speedy methods, who strive to pluck the fruit without cultivating the tree, and to share the advantages of victory without partaking the danger of the battle."

Johnson has to find something that does work and so he relies on a great principle of society—property – as a basis for argument. The scope of his intelligence and the fund of knowledge which he constantly added to by reading and conversation prepared him to meet most fallacious reasonings and nonsensical propositions. The latter he considered Rousseau's speculation on the origin of inequality. Johnson's excellent biographer, James Boswell, recorded his subject's opinion of this kind of speculation:

"Knowledge of all things is good. Conjecture, as to things useful, is good; but conjecture as to what it would be useless to know, such as whether man went upon all four, is very idle."

Where Rousseau has deduced a system, guessed at an unknown condition, and finds himself grieving over the state into which noble, primitive man has descended, Johnson has looked to experience, examined known conditions, and grieves only that, as he had written to his emigrant friend, "so much of our time is necessarily to be spent upon the care of living."

Grounded in Reality

The reason why Johnson always seems to be in a defensive position may be added here. Anyone could imagine a utopian state and by comparison with the unimagined hardship and injustice of real life show the system that produces these to be evil in its operation. Johnson acknowledged that evil but could not abandon such a system as the necessity of living demands in favor of a utopia where that necessity, because it is unconsidered, makes nonsense of that ideal state. He spoke of a real world, not of an easily fabricated one:

"Sir, there is nothing for which you may not muster up more plausible arguments, than those which are urged against wealth and other external advantages. Why, now, there is stealing; why should it be thought a crime? When we consider by what unjust methods property has been often acquired, and that what was unjustly got it must be unjust to

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keep, where is the harm in one man's taking the property of another from him? Besides, Sir, when we consider the bad use which many people make of their property, and how much better use the thief may make of it, it may be defended as a very allowable practice. Yet, Sir, the experience of mankind has discovered stealing to be so very bad a thing, that they make no scruple to hang a man for it."

The Uncertainty of Giving

While defending wealth, Johnson tried to resolve the problem of just concern for the poor. If the real world was not a vale of tears to him, it was at least no easy traveling. It was also nothing to capriciously tamper with as some would do who, after a pitying view of the poor, would distribute the luxury of the wealthy among them. Here is how Johnson reasoned against this:

"A man gives half a guinea for a dish of green peas. How much gardening does this occasion? How many labourers must the competition, to have such things early in the market, keep in employment? You will hear it said, very gravely, Why has not the half-guinea, thus spent in luxury, been given to the poor? To how many might it have afforded a good meal? Alas! has it not gone to the *industrious* poor, whom it is better to support than the *idle* poor?"

The industrious poor would not be harmed by luxury spread in this manner because "luxury, so far as it reaches the poor, will do good to the race of people; it will strengthen and multiply them. Sir, no nation was ever hurt by luxury; for, as I said before, it can reach but to a very few."

And it was with these "very few" and the use they made of their riches that Johnson was often concerned. His defense of property is strengthened by his opinion of its proper use. It is really an element of the defense.

A man of wealth to Johnson's mind has a prime obligation. He is obliged to spread that wealth for the benefit of society. Johnson rules out giving wealth away:

"A man cannot make a bad use of his money, so far as regards Society, if he does not hoard it; for if he either spends it or lends it out, Society has the benefit. It is in general better to spend money than to give it away; for industry is more promoted by spending money than by giving it away. A man who spends his money is sure he is doing good with it: he is not so sure when he gives it away. A man who spends ten thousand a year will do more good than a man who spends two thousand and gives away eight."

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Thus, the artificial dole is dismissed. "Earning your pay" is far better than receiving it outright. This opinion finds a possible justification in our own time in two areas; in foreign aid, where the position of the receiver is discomforting and gives rise to ill-feeling, and in programs for the poor, where government administrators have learned the importance of the poor's own involvement and action in return for the helping hand.

For Johnson proper use of riches can also refute the notion (held by Rousseau among others) that there is some better quality in poverty which sets it above wealth as a state to be desired. This is a silly notion because "he who is rich in a civilized society must be happier than he who is poor, as riches, if properly used (and it is a man's own fault if they are not), must be productive of the highest advantage."

Indebtedness Frowned Upon

Surely, Dr. Johnson is concerned with how well property is managed and to illustrate just how much he is concerned about the matter we may look into the 1782 correspondence Johnson had with biographer Boswell, then at his estate in Scotland. In three separate letters he enjoins Boswell to avoid debt. Once, he warns:

"Poverty, my dear friend, is so great an evil, and pregnant with so much temptation, and so much misery, that I cannot but earnestly enjoin you to avoid it. Live on what you have; live if you can on less; do not borrow either for vanity or pleasure; the vanity will end in shame, and the pleasure in regret. . . ."

In another, he advises:

"Let it be your first care not to be in any man's debt. When the thoughts are extended to a future state, the present life seems hardly worthy of all those principles of conduct, and maxims of prudence, which one generation of men has transmitted to another; but upon a closer view, when it is perceived how much evil is produced, and how much good is impeded by embarrassment and distress, and how little room the expedients of poverty leave for the exercise of virtue, it grows manifest that the boundless importance of the next life enforces some attention to the interests of this."

In a third, his tone is again admonishing:

"Do not accustom yourself to consider debt only as an inconvenience; you will find it a calamity. Poverty takes away so many means of doing good, and produces so much inability to resist evil, both natural and moral, that it is by all virtuous means to be avoided."

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So much for the proper use of property which Johnson has seen as so positive in its effects that he defends wealth against its enemies, moral and doctrinal. His life shows that the integrity of his defense cannot be questioned and, although social and political circumstances change, the soundness of his reasoning remains along with the necessity of man's meeting the demands of life. Wealth is as good or better an answer to these demands as any other thing and private possession ensures wealth's good use. After all, one has to at least recognize Dr. Samuel Johnson's common sense and preserve the resulting wisdom.

"Of riches it is not necessary to write the praise. Let it, however, be remembered, that he who has money to spare, has it always in his power to benefit others; and of such power a good man must always be desirous." ◈

IDEAS ON LIBERTY

A Question of Property

IF, as M. Proudhon asserts, "all property is robbery"—if no one can equitably become the exclusive possessor of any article, or, as we say, obtain a right to it—then, among other consequences, it follows that a man can have no right to the things he consumes for food. And if these are not his before eating them, how can they become his at all? As Locke asks, "When do they begin to be his? when he digests? or when he eats? or when he boils? or when he brings them home?" If no previous acts can make them his property, neither can any process of assimilation do it: not even absorption of them into the tissues. Wherefore, pursuing the idea, we arrive at the curious conclusion, that as the whole of his bones, muscles, skin, and so forth, have been thus built up from nutriment not belonging to him, a man has no property in his own flesh and blood—has no more claim to his own limbs than he has to the limbs of another; and has as good a right to his neighbour's body as his own! Did we exist after the same fashion as those compound polyps, in which a number of individuals are based upon a living trunk common to them all, such a theory would be rational enough. But until Communism can be carried to that extent, it will be best to stand by the old doctrine.

HERBERT SPENCER, *Social Statics* (Rev. ed., 1892)

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the Vital Secret

PAUL L. POIROT

NOT ONLY foreign visitors, but many who have lived all their lives in the United States, observe the comparatively higher level of living here than in other countries and seek a reason why.

Some attribute the American advantage to such governmental interventions as the Tennessee Valley Authority, or the Federal Reserve Banking System, or the Social Security program, or the Rural Electrification Administration, or the farm price support program, or the patent laws, or the public schools, or the Federal-state highways, or immigration or tariff policies, or the merchant marine, or the space program, or the antitrust laws, or the Federal Power or Federal Communications Commissions, or any of hundreds of other compulsory practices.

Others dig somewhat deeper to see that American workers have access to larger amounts of capital, machinery, tools, electrical energy, and other labor-saving devices which afford increased productivity for each man-hour of effort. And this would seem to come nearer to an explanation than does the amount of governmental intervention. Yet, when the magic formula is tried elsewhere, by building a high dam to provide electrical energy in Nasser's Egypt, or building costly steel mills and oil refineries in starving India, or confiscating all available capital in Castro's Cuba, the result is not the American level of living, but the same bare sub-

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sistence that has so long plagued those unfortunate people. So, there must be more than meets the eye to account for the high level of living in the United States.

It is true that we have more capital invested per worker, more kilowatt hours of electricity available per worker, more and better machinery and tools per worker. Yet, these are but part of the fruits of industrial progress; these are effects of progress, just as our high level of living is an effect. And the cause of these consequences must lie deeper still.

Those who will see clearly enough may discover that *freedom* lies behind these material accomplishments, this high level of living. Freedom means release from governmental regulations and controls, or from any form of coercion or compulsion, the release of human energy, where each man is free to try, to succeed or fail with his own property and his own effort, according to his own choice, with the full right to the fruits of his success and the full liability for his failure.

And perhaps underlying the practice of freedom are the concepts of respect for private property, respect for the life and the dignity and the rights of each and every human being, the self-respect that is becoming to a man as a creature of God.

So, if we would share our material achievements and our industrial progress with those less fortunate than ourselves, either within the United States in so-called pockets of poverty, or in other countries, let us try to better understand the nature of self-respect, learn to practice it more faithfully and fruitfully, in due humility, so that others may choose to do the same. From true and humble self-respect stems respect for the property and the lives of others. Once a people understand the importance of life and property, and come to respect another's as they respect their own, then they are in a position to organize a government of limited powers, knowing full well the limitations of coercive methods. And then, but not before, they are ready to practice freedom and enjoy such blessings of freedom as tools, machinery, electrification, automation, and a high and rising level of living.

Perhaps, if this were the secret of American progress that we undertook to share with the rest of the world, we might come to understand it well enough to preserve our own freedom. ◈

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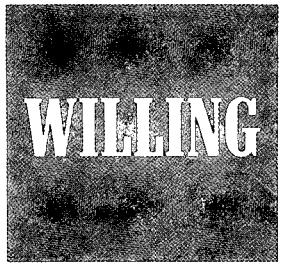
the Case for WILLING Exchange



LEONARD E. READ

THERE IS NO RESPECT in which any two persons are identical – physiologically, psychologically, philosophically, ideologically. Nature decrees variation in everything—no exceptions. In the animal world it seems that the more advanced the species, the greater the differences. As to man, this rule also holds true: the more advanced the individuals, the more distinctive are their dissimilarities.

Yet, regardless of this fact, we do generalize about our fellow humans; we attempt to categorize each other, to lump men and women under neat little labels: brilliant, muddled, idealistic, cussed, black, white, religious, inventive, and so on. All generalizations are oversimplifications; nonetheless, we couldn't get along without them. Communicating one with the other would be out of the question were minute particularization a requirement. Categories are tools of thought and are essential to communicable writing, talking, even to thinking for ourselves.

We cannot dispense with classifications without doing away with communication; we couldn't even think without them. But we can aid and abet our own thinking as well as our powers to communicate by dropping loose, sloppy classifications in favor of more refined ones. In short, we can try to say more precisely what it is we really mean.

For instance, in the politico-economic area, we carry oversimplification to an absurd extreme by putting all of humanity into two categories: (1) those we roughly think of as on "our side," and (2) those we regard as ideological adversaries. Such, of course, is the ultimate in erroneous classification. And to continue the error is to promote suspicion, misunder-

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standing, dissension, hate – yes, even wars. We should, insofar as possible, be done with this nonsense!

The Confusing Labels We Use for One Another

The sloppy labels employed depend on which of the two imaginary sides is doing the classifying. Those on one side will call the others collectivists, lefties, statists, communists, interventionists, state planners, welfare staters, Fabians, traitors, nazis – each term used derisively. There is another label – the favorable one these "collectivists" call themselves: "liberals."

But those who call themselves "liberals" will, with no less self-righteousness, refer to their so-called adversaries as extremists, reactionaries, rightists, profiteers, enemies of the poor, and even fascists. One also hears muttered epithets such as dog-eat-dog, law of the jungle, and the like. These are some of the ways the "lefties" label the "rightists."

Observe, now, how the "rightists" label themselves: conservatives, patriots, libertarians, individualists, constitutionalists; some will say they stand for capitalism, many for private enterprise. There are other favored labels – terms to indicate where they stand: the rule of law, free enterprise, free competitive enterprise, the market economy, the exchange economy, voluntarism, the profit and loss system, the incentive system, limited government.

What a babel of nondefinitive classifications from both imaginary camps! And who among us is exempt from this looseness? Most – not all – of these labels are meaningless and utterly confusing unless one is aware of the author's thinking, motivations, prejudices, predilections; they're no aid to clarity.

Reflect, for instance, on "capitalism" as used by Karl Marx, a term of opprobrium and, then, by Ludwig von Mises, a term of approbation. We do, of course, derive some idea of what is meant when "capitalism" is employed by such well-known authors, but most people who use the term are total strangers and, thus, we haven't the slightest idea as to what is implied. "Capitalism," on its own, is nondefinitive. We are at the mercy of the definers, few of whom agree.

Or, to further illustrate, take "private enterprise." To some minds this conjures up privately owned businesses honestly competing for consumer favor, an economic ideal. To others, everything from embezzlement to piracy is suggested, both of these enterprises being quite private.

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A Fundamental Difference

All politico-economic classifications in current usage have their faults. Nor is it possible to construct a term that is precisely definitive. However, there is one that seems to be an improvement over the others: *willing exchange.* I have used this term for some years as a means of identifying my own position, and, while little if any adoption by others has been noted, it is significant that no one has taken issue with me for using it. Perhaps if the implications of "willing exchange" were highlighted, it might be more widely employed. If clarity can be served, it's worth trying to make the case for its inclusion in our vocabulary.

The first step is to recognize how deeply exchange extends into human affairs. It goes to the very roots of and is fundamental to earthly existence. This is more or less apparent, as related to goods and services, in a division-of-labor society. Specialists exchange – or perish! But more: man, individualistic as he is, remains a social being. Even were an individual in comparative isolation, he can exist only by reason of his heritage – an exchange process in knowledge and ideas extending back to the harnessing of fire, even to the dawn of human consciousness.

So far, so good – no argument. In a word, we can declare ourselves in favor of exchange and arouse no more controversy than announcing a favoritism for life. And for good reason: exchange, without any modifiers, isn't meaningfully definitive.

It's at the next step – when modifiers are introduced – that controversy has its genesis. Shall it be *willing* or *unwilling* exchange?

Free or Forced

I wish to suggest that standing for *willing* exchange, on the one hand, or for *unwilling* exchange, on the other, more nearly accents our ideological differences than does the employment of the terms in common usage. It is when using these terms to distinguish ourselves that we can openly, honestly, logically part company, and with considerable clarity. *Willing* or *unwilling* exchange makes subterfuge not impossible but difficult; to side with one or the other is to declare one's meaningful position more or less unequivocally and unmasked; there is a minimum of verbal façade to hide behind.

Willing exchange, uncommon and thus not in the trite or cliché category, immediately provokes reflection, a big mark in its favor. The term has not yet been saddled with emotional connotations, such as those built around *free trade,*

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for instance. Further, its antithesis, *unwilling* exchange, comes to mind, and no one, not even a protagonist, proudly acknowledges he favors that; it does offense to his idealism. *Unwilling* exchange, at the very least, is a semantic jolter; it suggests to any sensitive sponsor that he take another look at his position.[1]

While I use *willing exchange* and *the free market* synonymously, the word *market,* to most people, conjures up no more than a swapping place for produce or the little understood and much maligned stock market; they see in *market* only crass materialism, no spiritual or cultural qualities, none whatsoever.[2] Frederic Bastiat used the term, *liberté des transactions,* a good-image phrase but, to my way of thinking, not quite as thought-provoking as *willing exchange.*

The full antithesis of *willing* exchange encompasses more than *forced* or *coercive* exchange which *unwilling* so clearly implies. No exchange at all – the absolute prohibition of exchanges – must also be included as the antithesis of *willing* exchange. One of many examples: the prohibition of exchanging dollars for gold.

Instances of Coercion

If we cut through all the verbiage used to report and analyze political and economic controversy over the centuries, we find that much of it boils down to a denial of *willing* and the insistence upon *unwilling* exchange. What were the Crusades but an attempt forcibly to substitute the "true faith" for the beliefs of the "infidels"! Napoleon attempted to substitute his authoritarianism for someone else's rule, armies and guns being his method of persuasion. The looting of neighboring nations was only a coercive exchange of some people's property for the invaders' satisfactions. Robbery, an exchange device, was the first labor-saving scheme. Feudalism was a coercive exchange of the serfs' labor for the serfs' and lord of the manor's protection. Mercantilism

[1] The forcible collection of income (taxes) to defray the costs of governmental activities must, when the activities are beyond the principled scope of government, classify as *unwilling* exchange. But taxes to defray the costs of activities that fall within the principled scope of government are in neither the *willing* nor *unwilling* category; they are the payment of an obligation as, for instance, a just debt. See my *Government: An Ideal Concept* (The Foundation for Economic Education, Inc., Irvington-on-Hudson, N. Y.) pp. 11-49.

[2] I insist that the free market is a spiritual phenomenon and that its apprehension is a greater cultural achievement than are poetry, music, or whatever. See the chapter, "The Miraculous Market," in my *The Free Market and Its Enemy* (The Foundation for Economic Education, Irvington-on-Hudson, N. Y.) pp. 6-21.

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forcibly controlled and/or prohibited exchange.

However, it is not necessary to draw on ancient history for examples of *unwilling* exchange. Today, the fruits of one's labor are forcibly exchanged to put men on the moon, to pay farmers not to grow numerous crops, to rebuild deserted downtowns. The list of coercive activities that go beyond the principled scope of government runs into the thousands.[3] Nor does one have to be much of a political economist to see that minimum wage laws, labor union compulsions, social security, medicare, free lunches, foreign aid, and a host of other governmental activities are the antithesis of *willing* exchange.

Unwilling exchange has its genesis in an objective theory of value, that is, in the forcible imposition on the individual of a value standard not of his choice but of someone else's making. It's Napoleon's, or a labor union's, or a bureaucracy's value judgment — not the individual's value judgment — that determines how the individual shall employ himself, what his hours and wages shall be, what and with whom he shall exchange, and what shall be the disposition of his income. Throughout the ages, right up to the present moment, *unwilling* exchange has been conspicuous, and for a simple reason: most people haven't known any better!

The Subjective Theory of Value

It wasn't until a few years ago — 1870 — not long enough to be widely apprehended, that Austria's Menger, England's Jevons, and Switzerland's Walras, almost simultaneously, made the greatest discovery in economic science: the *subjective theory of value*, sometimes called the "marginal utility theory of value." Until this time, no one had ever formulated a valid theory of value. Then these economists, by merely observing how ordinary people exchange when unrestrained, discovered that the value of anything was what others would give for it in *willing* exchange. The value of a painting, for instance, is whatever others will forego in order to obtain it. That's marginal utility, pure and simple, which can be only subjectively determined. In short, no one else but you can determine the relative or marginal utility of anything to you.

Here, for the first time in history, the concept of *willing* exchange unseats Napoleonic behavior — all forms of authoritarianism — and enthrones the indi-

[3] See *Encyclopedia of U.S. Government Benefits*. (Doubleday Book Shop, 724 Fifth Avenue, New York, N. Y.) 1,000 pp.

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vidual. The consumer becomes king. Individual freedom of choice rules economic affairs. Whether I plow the fields or pilot a plane, or whether I exchange the fruits of my labor for some corporation's stock or for a bungalow by the seashore is for me, and a willing seller, to decide; it is no one else's business! In good theory this is true; in practice it faces opposition.

Most individuals favor subjective evaluations as applied tc self but will, at the same time, insist on objective evalutions as applied to the millions who "don't know what's good for them." In a word, very few will accord that liberty to others which they so much cherish personally. These inconsistent people are the victims of a historical momentum – the darkened millennia of mankind's past – and thus have not apprehended the newest politico-economic fact on the face of the earth: individual liberty. This slowness to apprehend may, in turn, derive from our poor choice of descriptive terms.

Positive Identification

Admittedly, making the case for the use of *willing exchange* as a means of identifying one's position, is going to raise the question, "Well, if I am not to single out as descriptive of myself such terms as conservative, patriot, capitalist, libertarian, free enterpriser, or some other loosely definitive label, what then? Are you suggesting that I call myself 'a willing exchanger'?" Indeed not!

The best answer to "What are you?" is your own name. If one be a Marx or a Mises, whose reputations precede them, the name alone suffices. If one be neither infamous nor famous, and another is interested in the details, let him inquire and listen. A personal experience will help with my point:

I was invited to lecture at a clergymen's seminar in Texas. Just before the affair got under way, a gentleman proffered his hand, announcing, "I am Charles Hemphill from Cisco."

My response, "I am Leonard Read."

"Where are you from, Mr. Read?"

"The Foundation for Economic Education at Irvington-on-Hudson, New York."

"Oh! You're Leonard Read.

My ideological position was unknown until identified with FEE. Immediately, Mr. Hemphill knew of my beliefs, and in considerable detail.

Now, suppose my answer to the question, "Where are you from?" had been, "Right here in Mineral Wells." That would have given him no tip-off as to my position. This new friend, an inquiring

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spirit, would have wanted to know how to classify me. My capsule answer, today, would go something like this:

No man can contrive or blueprint a good society any more than any individual can make such a simple thing as a wooden lead pencil.[4] The pencil, or any other artifact, for that matter, is a manifestation of infinitesimal and varied creativities flowing through the minds of men in complex interchange since well before the harnessing of fire. Once the pencil comes into existence, we can, to some extent, observe and write about what took place, the most significant deduction being the *unobstructed* flow of creativities, that is, creativities in free and *willing* exchange.

Similarly, the good society is a manifestation, not of a predesigned blueprint – not of a mass blindly following some person's scheme of organization – but, rather, the natural out-cropping of the efforts of a goodly number of people in pursuit of Truth. In a word, a good society, like a pencil, is a configuration of the tiny wisdoms men come upon when seeking, above all else, what is right and righteous.

[4] See the chapter, "Only God Can Make a Tree – Or a Pencil" in my *Anything That's Peaceful* (Foundation for Economic Education, Inc., Irvington-on-Hudson, N. Y.) pp. 136-143.

Whenever a good society shows forth, we can, to some extent, observe and write about what took place, the most significant deduction being the *unobstructed* flow of millions of individually acquired wisdoms, that is, flashes of enlightenment in free and *willing* exchange.

The Truth Will Out

No man set about inventing *willing* exchange. Instead, some men were in pursuit of Truth. Their numerous findings and insights combined to make of them the kind of men who understood the advantages of *willing* or free exchange. But whenever the pursuit of Truth has not been uppermost among the aims of a considerable number of people, the understanding recedes to the point where *unwilling* exchange is believed in and practiced.

No man preconceived and set about designing and writing the Declaration of Independence, the Constitution, and the Bill of Rights as a means of erecting a good society. These political documents were really a configuration of beliefs that achieved dominance through a pursuit of Truth quite extraordinary in its intensity. The seeking of Truth was the seed; a good society, perhaps the best that has existed, was the bloom; these documents were but a re-

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cording of the beliefs. To confirm this, merely note that when the beliefs changed, the documents became commensurately meaningless.

When we entertain the idea that political documents and laws cause a good society, we are wont, in adversity, to repair and revise the documents and laws. This is not only useless but seriously diverting. For nothing counts but Truth, and Truth comes to us only when we are seeking what is right and righteous. This, to my way of thinking, is the most important and practical of all political facts.

Reflecting on what the pursuit of Truth has divulged, I believe that no person, or any combination of persons, regardless of numbers, or any agency they may contrive—be it a labor union, trade association, or government—has any right of control over any other person that does not exist or inhere as a moral right in each individual. The only moral right of control by one individual over another or others is a defensive right, that is, the right to fend off aggressive or destructive actions. Governments, therefore, should go no further in controlling people than the individuals who organize it have a moral right to go. For, if government does not obtain its power of control from those who establish it, from where then does its power derive? In short, limit governmental power to codifying the do-nots consonant with the defense of life and livelihood, to the protection of all citizens equally. No special privilege for anyone!

This is by way of saying that, ideally, government should be limited to inhibiting and penalizing all violence, fraud, predation, misrepresentation, that is, to keeping the peace. Insist that it tolerate no *unwilling* exchange and that it never indulge in what it is organized to prohibit. Let government do only this; leave all else, including welfare and prosperity, to *willing* exchange.

I believe we are fully agreed as to the quality of liberty we cherish for ourselves. The question is, are we agreed to allow this same quality of liberty to all others? If so, the spirit of liberty may be on the move again. ◈

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SOCIALISM U. S. STYLE

HENRY HAZLITT

NEW YORK CITY'S first subway opened in 1904. The fare was 5 cents. The subways remained under private ownership until 1940. The fare was still 5 cents. But meanwhile wholesale prices had gone up 32 per cent; wage rates had tripled; the lines were granted tax exemption by the city. They petitioned for higher fares. But the 5-cent fare was sacred. The city fathers decided that the only way to keep it was to eliminate private profit and run the trains themselves.

So the subways were bought by the city in June 1940. On July 1, 1948, the fare was doubled to 10 cents. On July 25, 1953, it was tripled to 15 cents. Between 1940 and 1953 other consumer prices went up 91 per cent, but New York subway fares went up 200 per cent. The lines were still run at heavy loss. Even by its own method of accounting, the Transit Authority has lost money in seven out of the last ten fiscal years. If even one of its several subsidies from the city is deducted, it has lost money heavily in every one of those years.

The Transit Authority, which runs the subways for the city, is required by law to operate within revenues received from operations. This is a rather technical requirement. In the first place, capital funds (such as for subway construction, subway cars, and buses) are provided by the City of New York. There is a subsidy for carrying school children, and a subsidy for Transit Police.

In the fiscal year ended on June 30 last, the Transit Authority reported an operating deficit of $62 million. This deficit was achieved in spite of a tax subsidy of $166 million to Transit for the fiscal year. The subsidy was made up of New York City's outlays for all debt service, construction, and new equipment of $116 million;

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the subsidy for student fares of $20 million, and the subsidy for Transit Police of $30 million.

And now the fare has been raised to 20 cents – a 300 per cent increase since 1940. The extra 5 cents is expected to bring in something in excess of $60 million, but probably will not be enough to cover the operating deficit even when all the subsidies are included. A 25-cent fare may be less than a year away.

As the charge for the service has been going up, the quality has been going down. The trains run less frequently; they don't meet schedules; they get older and dirtier, and so do the stations.

The Wall Street Journal recently complained in an editorial: "The change-makers in the municipally operated subway system refuse, usually with great rudeness, to accept a $5 bill or anything higher . . . A person finding himself with nothing under $5 has no choice but to trudge back up the stairs and find a store willing to make change. Nine times out of ten the shopkeeper will do so in perfectly friendly fashion. The contrast is illuminating. The salesman in the store knows his livelihood depends on courtesy and service. To many a minion of bureaucracy, however, people are nuisances at best and to be treated as such."

This is "public" ownership. This is how socialism, U.S. style, works.

A theory has developed that municipal transportation ought not even be expected to pay its way. This theory is merely the outgrowth of government ownership. When cities own and operate the subways, the fare must be subsidized. When governments own the railways, the railway fare must be subsidized. When governments own the telephone and telegraph lines, the lines are subsidized. When governments own the power and the light companies, power and light are subsidized. When governments own the airlines, the airlines are subsidized. Governments run the mail service, and the mail is carried at a loss. Nothing is expected to pay its own way.

A subsidy on bread would be more defensible than any of these, but the government doesn't yet own and run the bakeries.

The socialist argument begins by saying that fares are too high because private industry is under the necessity to make a profit. What is overlooked is that it is precisely the need to make a profit, or to avoid a loss, that leads to economy, efficiency, and good service. Government ownership removes the incentive to all three. ◈

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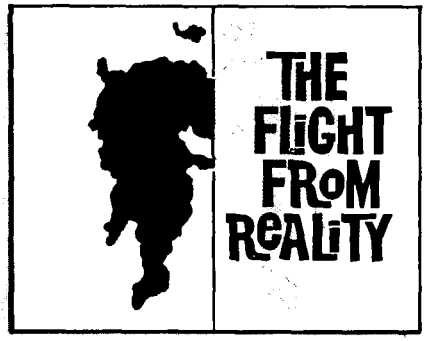

24. The Flight from the Constitution

PART II

CLARENCE B. CARSON

IT IS HARDLY conceivable that a people would grant the power to a government of their own making to make over their lives. Only confusion could produce the notion that it would be desirable or necessary to grant such powers to government. If a people wish to alter the character of their lives and their ways of doing things, there is no need for government to effect the changes; the people can make them on their own. Of course, a majority might grant powers to its government to make a minority conform to its will. But any thoughtful majority would wish to circumscribe these powers, for majorities change in their constituency, and a man who is today the member of a majority may tomorrow find himself in a minority.

At any rate, the Constitution of these United States did not authorize the government it provided for to engage in social reconstruction. Moreover, many protections were written for minorities against their subjection to some temporary majority. Yet, for a good many years now, the government of these United States has been engaged in various projects of social reconstruction. Each of these is a flight from the Constitution. But before detailing these flights and explaining how they have been made, let us examine a single instance.

On May 31, 1955, there went out a decree from the Supreme Court at Washington in the District of Columbia based upon a

Dr. Carson is Professor of American History at Grove City College, Pennsylvania. Among his earlier writings in THE FREEMAN were his series on *The Fateful Turn* and *The American Tradition*, both of which are now available as books.

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prior declaration by that body of "the fundamental principle that racial discrimination in public education is unconstitutional. . .—All provisions of federal, state or local law requiring or permitting such discrimination must yield to this principle. . . ." This decree ordered subordinate courts to comply in these words:

> —The Courts will require—a prompt and reasonable start toward full compliance—and enter such orders and decrees—as are necessary and proper to admit to public schools on a socially non-discriminating basis with all deliberate speed the parties to these cases. . . .

This decree had the purpose of implementing the ruling of the Supreme Court in *Brown* vs. *Board of Education of Topeka, et al,* which had declared segregated schools unconstitutional in 1954.

A great concert of spokesmen in the media of communication proclaimed that the decision and the subsequent decree was the Law of the Land. Many vocal elements in the United States subscribed to the notion, or presumption, that those who did not rush to comply with the Court's proclamation were defying the law. The import of what they were saying was this: Those who continued to maintain segregated schools supported by taxes were outlaws.

Such was not the case (and is not the case). Nothing is more firmly established in the American system of jurisprudence than that courts apply the law to particular cases. If this decision was law for anyone, it was law only for the defendants in the case (i. e., the Board of Education of Topeka, and so forth). It would become law for others only when rulings had been made upon cases brought before courts.

Critics of the decision have charged that the Court was legislating. Defenders of the decision have, by implication, claimed that the Court has legislated. When they say that the decision is the Law of the Land, they must be saying that the court legislated, for they do not charge that it was the Law of the Land before 1954. The words of the decision suggest that the Court was trying to legislate, or, at the least, give this character to its pronouncements, for it did speak to the general situation, though its order did and could apply only to those defendants before it.

Reconstruction, the Aim

The Brown case is of particular interest because it is a dramatic illustration of two intertwined trends involved in the flight from the Constitution. In the first place, it was an attempt to make over or reconstruct society. One writer

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focuses upon this character of the decision as well as emphasizing the departure from earlier practice in these words:

> The Segregation decisions had a social consequence of a vastly different order. They called for a rewriting of state and federal legislation relating to public education. When to the Segregation decisions are added the later judicial acts extending the new constitutional regime to other places of public assembly, one must acknowledge that judicial orders have required a basic revision of social structure and a root change in human relationships. The Supreme Court did not order Alabama and Mississippi and South Carolina to forget about an innovation in public policy and continue life as they had lived it before the promulgation of that innovation; the Court ordered people in those and other states to fashion legislation of a kind that they had never had on their statute books and to institute some social relationships that had never prevailed in those places.[1]

Second, the Court used established judicial procedures to carry out unjudicial action. This gave the act its semblance of legality and claim to be obeyed. But it did not alter the fundamental innovation involved nor departure from judicial functions.

[1] Charles S. Hyneman, *The Supreme Court on Trial* (New York: Atherton Press, 1963), p. 199.

The Method of Judicial Review

The two judicial instruments used were judicial review and the court order. The so-called power of judicial review is based upon the view that in applying the law the courts must decide which law applies to a particular case. If there are two laws in conflict, the court must choose which one is applicable, and in so doing it makes of the other a nullity. Two sorts of conflict have arisen: one, a conflict between an act of the legislature and a provision of the Constitution; the other, a conflict between Federal legislation and that of the states.

Since *Marbury* vs. *Madison,* the rule has held that an act of legislature in conflict with the Constitution will not be applied by the courts. Such an act is usually said to be unconstitutional. It is also held that a state act in conflict with a Federal act, when the Congress was acting within its constitutional powers, will not be applied. Claims have arisen over the years that the courts were actually making law when they interpreted the Constitution and the laws. But in the above examples, at least, the courts would not be making laws, they would only be deciding between laws as to which to apply.

The Brown decision was peculiar in many ways. The usual route to the testing of a law is to

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violate it, be found guilty by the appropriate court, and appeal the decision on the grounds of the unconstitutionality of the law. The Brown decision did not arise in this way, though it could have. Two ways to test the segregation laws come to mind. One would be for the parents of a child to refuse to send him to a segregated school. If the state in which this occurred had compulsory attendance laws, the parents might then be prosecuted for failing to require the child to attend. The particular law being challenged would be the compulsory attendance law, but perhaps the courts might decide upon the constitutionality of segregation in connection with it.

The other way to test the constitutionality of segregation would be for a school official to enroll, say, a Negro child in a white school, or vice versa. If he were then brought to court for his act, a perfect test case would be available for the constitutionality of the laws requiring segregation.

Change by Order of the Court

In both imaginary cases, the court could have ruled the acts unconstitutional. That is, the court could have held that an act compelling students to attend segregated schools was in violation of the Constitution (or even, that compulsory school attendance was). And, it could have held, in the second case, that the requirement that schools be segregated was unconstitutional. In either case, the decision of the court would have been negative, and the initiative for taking action would have remained with the states and communities. In these cases, the Court would not have been making law, though it would have reversed its former position as to what was law.

But the approach to the courts was not made in the usual way. Plaintiffs in these cases asked for *court orders* requiring the admission of the pupils in question to all-white schools. That is, they asked for orders compelling integration. The court order is a well established instrument of the courts. There are a considerable array of instances in which they may be issued. Roughly, though, they are of two kinds: those issued prior to adjudication, and those issued to effect a judgment arrived at in regular court proceedings. The first usually is of the nature of an injunction, prohibiting or estopping some action which, if it is as alleged, will result in irreparable damage if allowed to continue until a case can be decided in court. Decisions themselves may result in court orders; if so, they would be of the second kind.

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Remaking the Law

It is remarkable that these cases should ever have come before the Supreme Court. There was no alleged conflict between Federal and state statutes. There was no standing law (that is, legislative enactment) compelling integration upon which a court order might issue. Moreover, courts (including the Supreme Court) had held on many occasions that segregation, *per se*, did not violate the "equal protection of the law" clause of the Fourteenth Amendment. The ruling principle in such a case might be expected to be *stare decisis* (to let the decision stand). In short, there was no law, either statute or constitutional, upon which a court order might be issued.

Before the Supreme Court could issue the orders that it did and remand the cases to the lower courts for particular orders, it found it necessary to establish at least the semblance of such law by constitutional reinterpretation. That is, it reversed earlier decisions. Theoretically, it might have done so by declaring that it would not enforce laws requiring segregation in the schools, though it had no case directly challenging these before it. If it had done so, however, its ruling on the cases before it would, of necessity, have been to deny the suits. The Court was asked to rule not that segregation was unconstitutional but that for the plaintiffs to receive equal protection of the laws integration must be *required* in public schools.

Desegregation Does Not Require Compulsory Integration

Compulsory integration is the key phrase for understanding the import of the Brown decision. The distinction between declaring segregation to be unconstitutional in the public schools and the compelling of integration may appear to be a distinction without a difference. It is not; it makes all the difference in the world. If the Court had ruled that segregation was unconstitutional, the decision would undoubtedly have been subject to much controversy. It would, nonetheless, have been, in the common parlance, the Law of the Land. That is, the courts would not enforce segregation laws by assessing penalties against violators. In the normal course of events, no such cases would come before the courts. Everyone might know that such laws were of no effect. Ruling in this way, the Supreme Court has an inherent power to say what is the law in these United States. It is a negative power; it nullifies but does not create.

Compulsory integration is another matter altogether. It is not

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law at all. It lacks the predictability which is an essential requirement of law, about which more anon. There are no minimum nor maximum penalties fixed for violators. There is no provision for trial by jury of offenders, which, if the decisions were law, would be in conflict with the Sixth Amendment to the Constitution. There is no description of the circumstances under which integration must occur, no exclusion of those in which it is not required. The effecting of the decisions is to be done in such a manner as to evade the requirements that due process of law be observed.

"Due process of law" is often treated as if it were a mystery, to be divined, if at all, by those deeply immured in the intricacies of the law. For some of the finer points, this may be so. But much of the outline of the requirements of due process of law is spelled out unmistakably in the Fourth through the Eighth Amendments to the Constitution. For example, the Fifth Amendment says, "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury. . . ." The Sixth says, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed. . . ." The Seventh says, "In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved...." Any law which did not allow or provide for these processes would, itself, be in violation of the Constitution. The Brown decision, and those subsequent to it, allowed for no such processes; contempt proceedings before a judge only were to be the methods of enforcement.

Nothing Settled

More needs to be said under the heading of predictability. The Brown decision, for all its firmness of tone, did not settle the question as to what is the law. It only raised a host of questions. Let us note some of them. Must a school admit a child of the Negro race when he applies without regard to where he resides? Does the ruling apply with equal validity to Indians, for instance? Must a school district integrate its schools in the absence of the desire for such integration from any of its constituency? May a pupil be compelled to attend an integrated school? When is a school integrated? Must a school have some kind of balance among the races in its pupil make-up? Must Negroes be imported or

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white people exported in order to achieve integration? Any court worth its salt confronted with the Brown decison under the guise of law would, of necessity, rule that it was no law.

The Brown decision, and those subsequent to it, was not judicial legislation; it was judicial compulsion. There was, and is, no law requiring integrated schools. There have been a large number of court orders compelling integration in particular instances. They are compulsions, however, without the sanction of law—in the absence of standing law. They are assertions of the will of the courts, or of the Supreme Court, hence, arbitrary, violative of constitutional rights, and putative usurpations of powers belonging to legislatures or to the people.

Those who believe that the Brown decison was nonetheless proper may defend their position by holding that the integration of the schools could not otherwise have been obtained, that there would have been insufficient states to approve a constitutional amendment for it to be adopted, that Congressional action would have been forestalled by a filibuster, that grand juries in some parts of the country would not indict offenders, that trial juries would not convict. All of this is another way of saying that the Constitution does not contemplate the use of the government to make over the lives of Americans, that it provides for a government answerable to the people, that the taking of life, liberty, and property are powers residing finally in juries selected from among those in the communities where the act is done. In short, Americans did not contract away the power to alter and determine what their lives would be. Such attempts can be made only by flights from the Constitution.

Other Unconstitutional Actions

The above is, of course, only one among many flights from the Constitution in the last eighty years. It is particularly significant because it shows how a nonelective branch of the government claims power for itself to alter society. But all branches of the United States government may and have taken part in action unauthorized by the Constitution. The following are some examples of such actions:

1. Passage of antitrust acts
2. Authorizing the Interstate Commerce Commission to set rates
3. Establishing of the Federal Reserve System
4. The passage of a graduated income tax
5. The construction of steam gen-

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erators by the Tennessee Valley Authority

6. The subsidizing of agricultural prices

7. The restricting of crop acreages

8. The subsidizing of interest rates

9. The establishing of minimum wages and maximum hours

10. The operating of Social Security

11. The sponsoring of co-operatives

12. The giving of Federal aid to education

13. The providing of low rent housing

14. The making of loans to other nations

15. The forbidding of child labor

16. The arbitration of labor disputes

17. The controlling of prices

These and many other actions have been done by the government of the United States. They are nowhere authorized in the Constitution. The legislative powers are enumerated in Article I, and not one of the above is mentioned nor, for that matter, clearly implied in the powers granted. Some will imagine, for example, that a graduated income tax is authorized by the Sixteenth Amendment. It is not. The Amendment reads, "The Congress shall have power to lay and collect taxes on incomes from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

True, a graduated tax is not forbidden; but, then, neither is it authorized. Moreover, since the prevailing practice in America was for taxes to be uniform, no presumption existed that this authorized graduation. On the contrary, the supposition would be that income tax rates would be uniform.[2] Any court eager to insure the equal protection of the laws to the citizenry might refuse to enforce the graduated feature of the income tax on the grounds that by its workings Americans are not equally protected from the confiscation of their property.

Getting Around the Limitations

My point, however, is that the Constitution does not authorize a graduated income tax. Nor does it authorize a host of other actions taken with the purpose of making over American society. The Constitution posed both formal and substantive obstacles to the partisan use of government for such unlimited ends. Some account has been made of how the formal ob-

2 See Thomas J. Norton, *Undermining the Constitution* (New York: Devin-Adair, 1951), pp. 60-63.

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stacles have been largely overcome. The formal obstacles were the separation of powers within the Federal government, the dispersion of powers among the Federal and state governments, the differing composition of the electorate for various elective offices, and the division of the country into relatively small electoral districts. The major devices by which these have been overcome have been the development of political parties, the direct election of Senators, the establishment of "independent" boards and commissions which tend to combine powers otherwise separate, the taking of initiative for legislation by the President, and the engaging of the Supreme Court in pseudo-legislative pronouncements.

The substantive obstacles in the Constitution consist mainly of the enumeration of powers granted and reservation of those not granted to the states or to the people, procedural restrictions, and enumerated prohibitions against certain actions. Many of these have been evaded, reconstrued, or ignored, so as to allow the Federal government to act in ways not authorized.

The Commerce Clause

Probably the one provision of the Constitution that has been stretched to the greatest extent to empower the Federal government to act upon Americans has been the interstate commerce clause. Article I, Section 8, gives Congress the power "to regulate Commerce . . . among the several States. . . ." Of this power, along with that of regulating commerce with foreign nations and with the Indians, one writer says: "This grant of authority is in the simplest of words, yet these words have unfolded into a body of propositions and explanations that constitute at least one half of the constitutional doctrine pronounced by the Supreme Court."[3]

The first thing to be noted about this power is that it is a general and exclusive grant of it to the Federal government, and that the power so granted is vague and imprecise. Chief Justice John Marshall set forth in outline (in *Gibbons* vs. *Ogden*, 1824) the broad expanse of this power. He said, in part, "Commerce, undoubtedly, is traffic, but it is something more, – it is intercourse. It describes the commercial intercourse between nations, and parts of nations, in all its branches, and is regulated by prescribing rules for carrying on that intercourse." Of the power granted, he said: "This power, like all others vested in congress, is complete in itself, may be exercised to its utmost

[3] Hyneman, *op. cit.*, p. 141.

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extent, and acknowledges no limitations other than are prescribed in the constitution."[4]

Production and Sale

For about one hundred years, from some time after 1824 through 1936, the courts occupied themselves with delimiting and prescribing the extent of these powers. The Supreme Court distinguished between interstate and intrastate commerce, between trade and manufacturing, between that which has a direct effect on commerce and that which does not. Typical of such decisions was that of *United States* vs. *E. C. Knight Company* (1895). This case tested the constitutionality of the Sherman Antitrust Act, involved the question of whether or not the power over commerce gave Congress the power to control monopolies in manufacturing. While the court did not hold the Sherman Act unconstitutional, it did hold that it did not extend to monopolies in manufacturing. Chief Justice Fuller reasoned in the following way:

. . . Doubtless the power to control the manufacture of a given thing involves in a certain sense the control of its disposition, but this is a secondary and not the primary sense; and although the exercise of that power may result in bringing the operation of commerce into play, it does not control it, and affects it only incidentally and indirectly. . . . The power to regulate commerce is the power to prescribe the rule by which commerce shall be governed, and is a power independent of the power to suppress monopoly. . . .[5]

One of the last decisions to attempt to maintain such distinctions and limitations on the Federal power was *Schechter Poultry Corp.* vs. *United States* (1935). The tendency of this decision was to invalidate the National Recovery Act (1933). It was also one of the last decisions to affirm that the Constitution imposes limits upon the Federal government regardless of the conditions which may prevail. Chief Justice Hughes said, in part:

. . . Extraordinary conditions do not create or enlarge constitutional power. The Constitution established a national government with powers deemed to be adequate, as they have proved to be both in war and peace, but these powers of the national government are limited by the constitutional grants. Those who act under these grants are not at liberty to transcend the imposed limits because they believe that more or different power is necessary. Such assertions

[4] Henry S. Commager, ed., *Documents of American History* I (New York: Appleton-Century-Crofts, 1962, 7th ed.), 239-40.

[5] *Ibid.*, I, 618-19.

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of extra-constitutional authority were anticipated and precluded by the explicit terms of the Tenth Amendment. . . .[6]

He then concluded for the majority of the Court:

We are of the opinion that the attempt through the provisions of the Code to fix the hours and wages of employees of defendants in their intrastate business was not a valid exercise of federal power.

On both the grounds we have discussed, the attempted delegation of legislative power, and the attempted regulation of intrastate transactions which affect interstate commerce only indirectly, we hold the code provisions here in question to be invalid. . . .[7]

A Turning Point in 1937

From this point on, though, the obstacles to the use of power over interstate commerce to regulate a multitude of business activities began to be removed. The Federal courts had never exercised much restraint over state regulation of industry and commerce (about which, more later), but now they began to reduce the restraints on congressional power. A turning point can be seen in *NLRB* vs. *Jones & Laughlin Steel Corp.* (1937). Chief Justice Hughes came as close as a judge is apt to do to reversing his earlier opinion in this one. He said,

We do not find it necessary to determine whether these features of defendant's business dispose of the asserted analogy to the "stream of commerce" cases. The instances in which that metaphor has been used are but particular, and not exclusive. . . . The congressional authority to protect interstate commerce from burdens and obstructions is not limited to transactions which can be deemed to be an essential part of a "flow" of interstate or foreign commerce.[8]

Thereafter, all sorts of legislation has been validated under this clause, as, for example, child labor laws, social security, minimum wages, maximum hours, and so forth. By 1953, a student of constitutional interpretation, William W. Crosskey, could conclude that the whole panoply of distinctions and restrictions upon the Federal government in the regulation of economic affairs had been in error. Correctly construed, he said, the powers granted are plenary: "The national government shall have power to regulate the gainful business, commerce, and industry of the American people."[9] The Congress, the President, and the

6 *Ibid.*, II, 280.

7 *Ibid.*, 283.

8 Charles Fairman, *American Constitutional Decisions* (New York: Holt, 1952, rev. ed.), p. 220.

9 Quoted in Hyneman, *op. cit.*, p. 149.

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courts have increasingly operated upon such a premise.

Liberties Infringed

But let us examine some of the implications of this doctrine. Such an examination will lead us to other flights from the Constitution. If Congress may regulate all gainful business, what is to keep it, for example, from regulating newspapers? Might it not enact legislation to the effect that no newspaper may be sold in any state other than the one in which it is published? Might it not prohibit the dissemination of religious information?

But, it may be objected, these acts would be in violation of freedom of the press and of religion. So they would; Congress is prohibited from making such legislation by the First Amendment. The power of regulating interstate commerce is limited by the Constitution. One writer notes that there are four limitations upon this regulatory power in the original Constitution, relating to "importation of slaves and migrations of other persons into a state, imposition of taxes on imports and exports, and discrimination against one state in favor of another in ocean shipping.[10]

Much more to the point, however, are the limitations in amendments. Not only are religion and the press protected by amendment, but life, liberty, and property are as well. The Fifth Amendment prescribes that "no person . . . shall be deprived of life, liberty, or property, without due process of law. . . ." The courts assumed that this restriction did not apply to state governments, but the Fourteenth Amendment made such an extension explicit: "nor shall any State deprive any person of life, liberty, or property, without due process of law. . . ."

Ownership Undermined

Life, liberty, and property are in a slightly different category from speech, the press, and religion. The Constitution contemplates occasions where the former may be taken away; whereas the latter are absolutely protected from congressional intervention. But life, liberty, and property are only taken by due process of law. It should be clear that these provisions have the purpose of limiting government action. It should be clear, also, that the regulation of interstate commerce may affect property. (It may also affect liberty, and perhaps life, but let the consideration be restricted here to property.) The Constitution provides for two occasions for the taking of property: by taxation and (by implication) by the right

10 *Ibid.*, p. 141.

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of eminent domain. The taxing power is limited by the requirement that taxes be for the common defense and general welfare, and that they be uniform throughout the United States. The power of eminent domain may only be exercised when private property is taken for public use and just compensation is paid.

Any taking of property other than by taxation or eminent domain by the Federal government would be unauthorized. Any regulation which had the effect of taking property, or some portion of it, would have to follow established procedures, namely, those for levying and collecting taxes or those for condemning property. Otherwise, it would be unconstitutional because it did not observe due process of law.

My point is that the power to regulate commerce among the states has been used so as to take property. Take a simple case, the establishment of minimum wages. Whatever wages an employer paid, under this enactment, above what he otherwise would have paid would be property taken from him by the working of the law. It would be property taken not as taxes nor for which he had received compensation. Such confiscation would be unauthorized and in violation of the due process clauses of the Constitution. This would appear to apply as well to state action as to that of the Federal government.

Regulation Involves the Taking of Property Bit by Bit

A nice distinction occurs at this point. The regulation of interstate commerce does not usually result in taking *all* of the property in question. It only takes some portion of it or some traditional (or natural) right to its use. It limits the right to buy and sell, to transport goods, to hire and fire, to contract, and so forth. It is an eminently effective device for taking property bit by bit and piece by piece. The gradual thrust to socialism has no more appropriate Fabian method in its arsenal.

While Congress and Presidents have been employing these methods ever more effectively, the courts have been weaving a fabric of opinions which enable them to evade responsibility for negating such action. The courts never did much, though they did some, to protect property from states under the Fourteenth Amendment. Early and late, they reduced this protection by declaring that states had an inherent power, which they had never yielded up, to exercise the police power to protect the health, safety, and morals of their citizenry. No mention is made of this in the United States Consti-

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tution, and no exceptions for it are to be found in the Fourteenth Amendment.

Changing "Due Process"

As far as "due process" is concerned, the Supreme Court has, as regards property, reduced this to something that the courts can determine without reference to any objective standard. For example, Justice Roberts ruled for a majority of the Court in *Nebbia* vs. *New York* (1934) that "the guaranty of due process, as has often been held, demands only that the law shall not be unreasonable, arbitrary or capricious, and that the means selected shall have a real and substantial relation to the object sought to be attained.... The reports of our decisions abound with cases in which the citizens, individual or corporate, has vainly invoked the Fourteenth Amendment in resistance to necessary and appropriate exertion of the police power. . . ."[11] There is in none of this language any reference to anything objective to which the courts must bow in making their decisions.

Other lines than these have been followed to override the constitutional limitations on the use of governmental power. The general welfare clause has been interpreted as if it were a grant of power.[12] Courts have ruled, in effect, that there is a presumption in favor of the constitutionality of an act of Congress, thus tacitly placing the burden of proof on anyone who claims that it is not constitutional. Courts have turned limitations upon governments into requirements that governments provide some service. Examples of this can be found in such rulings as that states must provide counsel for those criminally charged and who are unable to afford it, that "civil rights" demonstrators must be permitted to use the highways of a state, and so on. In effect, the courts create "rights" (more precisely, privileges) by their decisions while they take away constitutional rights.

Advanced Decay

Whatever evidence and analysis should be summoned to support the judgment, there should be no doubt that a general flight from the Constitution has taken place. The obstacles in the way of using government to make over Americans have been, to a large extent, overcome, so far as the Constitution is concerned. The Presidents have taken over much, or most, of the initiative for legislation. The courts have made decrees that

[11] Commager, *op. cit.*, II, 300.

[12] See, for example, Justice Cardozo's opinion in *Helvering et. al.* vs. *Davis* (1937).

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have no basis other than their wills. Many of those in Congress think of the Supreme Court as the only limitation on their actions, and the Court, as has been shown, is ill disposed to limit. The formal limitations upon the political activities of factions have been mainly overcome.

The balance of powers within the government has been upset, as Presidents and courts have gained power. Much of the power of the Federal government now resides in the least representative branches. The courts are not popularly elected, and the members can be removed from office only by difficult impeachment proceedings. This was not to be feared so long as courts applied the standing law, but as they have begun to innovate, the matter has changed. They are usurping powers that belong to the people. The dispersion of powers among the Federal and state governments has been greatly altered as more and more power has been centralized in the Federal government. Departures from the basic and fundamental law of the land – the Constitution – signal lawlessness in high places. If the Supreme Court may interpret at will, what is to keep each man from doing so?

There is an answer to the last question. The answer is that he is kept from doing so by superior force. Force is being introduced into every area of life, but not by regular means. It is done increasingly pursuant to decrees and proclamations. In short, the power of government is being used to make over Americans, not by consent for that would hardly be given, but arbitrarily and capriciously. We are on a flight from the reality of our political foundations which evinces itself in a flight from the Constitution. ◈

The next article in this series will concern "Political Experimentation: The Four Year Plans."

Back Issues and Binders

Back issues of THE FREEMAN, since October 1964 when this *Flight from Reality* series commenced, are available at 20 cents a copy. Also available at $2.50 each are the 12-rod, blue Leatherlex FREEMAN binders.

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FREEDOM TO SIFT & WINNOW

LOYAL MEEK

How can today's liberals be devoted to a free market for ideas and, at the same time, be opposed to the idea of a free market for goods and services?

One would think that a man who has an appreciation of the importance of academic freedom in the search for truth and knowledge would perceive the equal importance of economic freedom in achieving a better standard of living for all.

Strange to say, however, many of today's professors of the new sciences and the new humanities, while fervently defending their academic freedom, are engaged with equal fervency in destroying the concept of economic freedom in favor of some sort of politically managed economy.

Mr. Meek is chief editorial writer of the *Milwaukee Sentinel.*

One of the better expressions of the concept of academic freedom is this:

"... Whatever may be the limitations which trammel inquiry elsewhere, we believe that the great state University of Wisconsin should ever encourage that continual and fearless sifting and winnowing by which alone the truth can be found."

That may be paraphrased to give an equally good expression of the concept of economic freedom, thusly:

"... Whatever may be the limitations which trammel economics elsewhere, we believe that the great society of the United States should ever encourage that continual and fearless sifting and winnowing process of a free market by which alone prosperity can be found."

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Teachers and students would object strenuously, and with justification, if the president of their university were to dictate what they had to think. Yet some teachers and students do not object – nay, some even vigorously advocate – that the president of the nation be given the power to decide what people can buy or sell, and for how much, rather than to let people make these decisions for themselves.

Why do so many who worship academic freedom scorn economic freedom? The answer seems to be that they lack the faith, the courage, and the wisdom to understand that the sifting and winnowing process is as efficacious in the market place of goods and services as it is in the market place of ideas, teaching, and research.

In state after state down through history – Red China being the current glaring example– where there has been no economic freedom there has been no academic freedom. The two go hand-in-hand. Those who want to preserve their academic freedom would do well to support and promote economic freedom. For, if the day ever comes when a ruling elite controls the economy down to the smallest detail, that will also be the day when a few men holding a monopoly of political power will control the academic community, down to the smallest detail.

The person who believes in academic freedom should, with equal fervor, believe in the free market system. ◈

IDEAS ON LIBERTY

Separation of Powers

THE ACCUMULATION of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.

JAMES MADISON, *The Federalist*, No. 47

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Values, Exchange, & Profits:

THE BEDROCK OF ECONOMIC SCIENCE

FREDERIC BEACH JENNINGS, JR.

THE MOST BASIC questions in economic theory are those concerning *value*. What determines value? What are those factors that make a mere item have a value? A common error is that of speaking about values out of context. For example, if someone were to ask: "Does that rock have a value?," one's immediate reaction should be, "A value to *whom* for what *purpose*?" If that rock cannot be used (a) by someone (b) to achieve some goal, it has no worth.

Thus, the very employment of the term value presupposes the question, "Of value to whom?"; the concept "value" must be used in context. A given individual has a certain hierarchy of values, whether explicitly or implicitly held in his own mind. However, these values are ultimately referable to the purposes set by that person for himself. A fisherman may consider fishhooks and fishing-line as quite valuable, since they have a high degree of importance relevant to his *purpose* of fishing. A writer will not find fishhooks of much use at all; he will want writing instruments; their worth *to him* is derived directly from the goals *he* has chosen. Thus, an individual's hierarchy of values is based on two things: (a) his hierarchy of purposes and (b) the degree of relevance to those purposes of the objects to be valued.

But then what is the relation of *prices* to value? It must be kept in mind that the existence of prices presupposes the existence of ex-

Mr. Jennings, a student at Harvard University, felt impelled by various classroom and campus discussions to try to clarify his principles of economics.

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change. Without the latter the former would be unnecessary. Thus, in order to understand exactly how prices relate to exchange, the nature of an exchange relationship must be closely examined. Once again we must ultimately refer to individual values, always remembering that these only reflect that person's goals which he has chosen for himself.

Each Trader Gains

A voluntary exchange, by its own nature, always results in the mutual advantage of both parties, at least in their eyes. In terms of an individual's hierarchy of values, he will not tend to be willing to accept a lower value in exchange for a higher one. He will only be willing to act if he will be better off as a result of that action, i.e., if he will *profit* by it. In a barter economy, exchange will only take place if each party considers himself better off in terms of his value-preferences as a result of the trade. If I have a potato and a friend has a pear, it would only be to our mutual advantage to trade if he wanted the potato more than the pear and I the pear more than the potato. Both of us would consider ourselves to be better off after the trade. When a medium of exchange is introduced, longer-range and more complex exchanges are made possible (thus enabling men to plan long-range and hence to expand their potentialities), but the principle remains the same. Voluntary exchange still works to mutual profit, by its very nature.

A common error is that which views exchange as involving two commodities of equal value, thus dropping the context of what a value is. This notion forms the basis for the conclusion that one man's profit must be at another's expense. However, one man cannot gain at another's expense by free exchange. Only when exchange is coerced may one party to the trade incur a loss.

Note that coercion is only necessary if the exchange wouldn't have taken place otherwise, i.e., if the exchange was *not* to mutual benefit. Thus, coercion is being used to create conflicts of interest rather than to resolve them, by using force to enable one person to profit at the expense of another. If each stands to gain by the trade, it will most likely take place of its own accord.

But how do prices fit into this framework of free exchange? The use of a medium of exchange in the economy facilitates trade relationships between men – this is the source of the value of money; it is good for the purpose of trade. However, money is only of worth to an individual consumer in that

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it can be exchanged for values; *the degree of its value is only meaningful in the full context of the worth of the many commodities it can be traded for.* But what is the relation of prices to the consumer's values and goals? The price of an item is not its value; they are related but not identical. As previously observed, the item acquires value only in relation to the consumers' goals, and money gains its value from the worth to the purchaser of the things he can buy with it. Then the price only affects the relative gain to each party from the exchange.

Choosing among Alternatives

However, the individual consumer runs into many problems in deciding what specific exchanges to make. One of these is that of *calculating* a value previous to use, i.e., previous to exchanging another value for it. One person may buy a book for 95¢ which changes his life, gives him a whole new approach and outlook, and ultimately shows him the way to achieve happiness. Another may buy the same book and after reading it decide that he was gypped. The first person profited immeasurably from the exchange, and the second person's action resulted in what he considered a loss. However, at the time of purchase both bought the book because they felt that they would be better off from the exchange. This is a difficulty that many socialist planner-theorists seem to overlook. In a market based on free exchange, at least, a consumer occasions a loss only from his own miscalculations, and may even learn from them and apply that knowledge to future choices, so as to avoid repetition of error.

The chances are, however, that the consumer will gain from exchanges, unless he is completely irrational in his choices, because of the way the market operates on producers' profits. We saw that both parties gain from a voluntary exchange; the price merely determines the relative degree that each profits. But in a competitive economy producers' profit-rates tend toward an average minimum. From this observation it could be argued that the largest profits in the free market are those that accrue to people as consumers!

Thus, it is my contention that the conventional view of profits as only accruing to the businessman's end of the exchange relationship is too narrow; that it gives a false picture of the true nature of voluntary trade. There is no conflict of interests inherent in trade relationships. Mutual profit provides the incentive for people to produce and trade; it is the all-important

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fuel which keeps the economic engine progressing through human action toward the betterment of everyone.

Satisfy the Customer

In the light of my approach to values and demand, then, what is the source of producers' profits? If the use of coercive measures is not open to him (i.e., if the government acts to protect free exchange between individuals rather than to inhibit it, and does not engage in policies of protectionism, etc.), he has only one means by which he is able to *make money*. He must seek out and identify unsatisfied demand and attempt to fulfill it. This he can do by creating a new product which people will value in that it aids them in achieving their goals (thus making them better off); or he can raise his own efficiency in producing commodities already being produced and undersell the other producers, thus giving the consumer a better deal in the trade than his competitors have; or he can devise a new invention which will raise the efficiency of others' production and lower their costs and thus their prices and thus ultimately helping the consumer in that way.

There are many ways of making profits as a producer in a free-exchange economy, but all of them have one thing in common. *They all ultimately must aim at improving the well-being of the consumer.* Through the legal protection of property and of uncoerced exchange, producers are rewarded by the free market commensurate with their ability to and success in satisfying consumer preferences.

However, I have been very careful about qualifying my conclusions relative to *free* exchange: what happens if these voluntary exchange relationships are inhibited by governmental coercion? What happens in a socialist or even a mixed economy in the light of my conclusions? It would appear that, at least in the consumers' own eyes, they would be not better but worse off than under a free-enterprise system, because if an exchange is to be mutually profitable it must be uncoerced. And goods must be produced to be consumed, so producers' profits are as important economically as consumers' profits.

Who Is to Judge?

But here we run into the moral question: are individual consumers competent to decide what is in their own best interests, i.e., what will improve their conditions of existence? Are they competent to decide their own purposes for their own lives? Or, will the planning of

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production by someone else more nearly reflect the best interests of "society," i.e., of all individual members?

This question has been argued and will continue to be; it remains one of the more basic issues in the conflict between free enterprise and socialism. But if economics as a science is concerned with setting up conditions under which everyone will be better off, in their own estimations, then we can examine the effects of governmental inhibition of free exchange, whether it take the form of interventionism, fascism, socialism, communism, or any of the many variants of each.

Exactly how is this harm done? For example, what are the effects on business decisions of government price-fixing?

Consequences of Price-Fixing

One consequence is that the price is no longer a direct indicator of the dynamic balance between changing consumer value-preferences and evolving production conditions. The price thus is no longer meaningful in the context of market conditions. Thus, the scope of business decisions is considerably narrowed. Business managers no longer must view the price as an indicator of a great many other changing factors; they need only focus on the price itself, relative to their own production costs. Whereas beforehand they based their decisions ultimately on varying consumers' preferences and attempted to anticipate new wants and fulfill them (thus producing directly *for* the consumer), once prices are planned, the scope of the factors upon which decisions are based is constricted and altered.

As for a mixed economy, the degree of interference will determine the extent of the change. Business decisions weigh heavily on price predictions, which in turn under socialism depend on the vagaries of economic planners with near-arbitrary control. Thus, as a result of this redirection in emphasis, in order to better his position the businessman may aim more at gaining political influence so the price can be adjusted to his advantage (at consumers' expense) rather than aiming solely at improving the lot of the consumer by more efficient production of values. Granted, price controls are a means of directing economic production, but let us not rationalize it by saying that it is "in the best interests of the consumer."

Once again we get back to the same basic question. If values are ultimately referable to individuals' purposes, then they cannot be quantified, calculated, and planned by anyone except that individual, and especially not by any central body. Production of *values* is best done

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by letting producers aim solely at satisfying consumer demand, in an uninhibited market economy. The final issue remains one of whether a central planner can better decide what is in people's interests than they themselves can; i.e., whether businessmen should act according to the dictates of the consumer or of the planner.

The More Complex the Society, the More Need for Freedom

If values are ultimately referable to individual purposes, they are not calculable or quantifiable in a developed economy. Possibly in an undeveloped, subsistence-level economy, values are to some degree predictable in that, by the very nature of life, survival requires certain actions of men. But when choices and alternatives become more complex, and men are not living a hand-to-mouth existence, men develop longer-range, more diversified purposes. Thus their value-hierarchies become more complicated and varied, and unless one aims at directing the very purposes of people's lives, it is best to leave it all to them. Since we are living in a highly integrated, complex society, we must direct our focus onto the problems of socialist planning in that context, in order to cover two final points. First, since attempts at "planning" do get so complicated, and require so much gathering of information, many man-hours must be dedicated to this task. Would not these planners do more good for consumer well-being if they, too, directed their efforts toward the production of values?

Furthermore, a highly-developed and specialized economy is one in which many lives are crucially and intricately dependent upon exchange relationships and their fluidity. Men's professional purposes are so specialized that the fruits of their work may only be of value to a small number of others. The fluidity and sensitivity of a market economy enables these men to seek each other out — thus, men are free (to a certain extent) to specialize and exchange their productive work for other values, always to the mutual benefit of both parties. But it might be quite difficult to convince a "disinterested" planner that this highly specialized work was useful (he might not see things in the same light as the person to whose purposes this man's work had value). In such an instance, who is blocking "progress"? This problem might be intensified all the more in that socialism is partly based on the idea of intrinsic values, which, in the planner's eyes, this work might lack.

The practical problems of so-

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cialist planning seem to be without limit in their number and complexity. My purpose in this essay has not been primarily to enumerate those difficulties, however, but rather to present my own claim that much socialist and interventionist theory is ultimately based (a) on an erroneous theory of the nature of *value* and (b) on a subsequent misunderstanding of the nature of *exchange* and *profit*. My analysis of the nature of prices and the value of money merely follows from my other conclusions, as well as my espousal of a free exchange economy as the most efficient creator and protector of "social welfare." ◈

IDEAS ON LIBERTY

Profit-Seeking Business

THE ENTREPRENEURIAL FUNCTION, the striving of entrepreneurs after profits, is the driving power in the market economy. Profit and loss are the devices by means of which the consumers exercise their supremacy on the market. The behavior of the consumers makes profits and losses appear and thereby shifts ownership of the means of production from the hands of the less efficient into those of the more efficient. It makes a man the more influential in the direction of business activities the better he succeeds in serving the consumers. In the absence of profit and loss the entrepreneurs would not know what the most urgent needs of the consumers are. If some entrepreneurs were to guess it, they would lack the means to adjust production accordingly.

Profit-seeking business is subject to the sovereignty of the consumers, while nonprofit institutions are sovereign unto themselves and not responsible to the public. Production for profit is necessarily production for use, as profits can only be earned by providing the consumers with those things they most urgently want to use.

LUDWIG VON MISES, *Human Action*

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TOO MUCH

DONALD ROGERS, who used to be the financial editor of the *New York Herald-Tribune*, would like to be the leader of a crusade. But unfortunately only a few straggling platoons have formed behind him. There is a promise in the air of a bigger army, but it is only a promise, and we should not delude ourselves into thinking the crusade is about to burst into full swing.

In a fighting book, *The End of Free Enterprise* (Doubleday, $3.95), Mr. Rogers explains the nature of his crusade. It is to persuade American business to take a vastly augmented responsibility for re-creating a climate of opinion in the United States that will be favorable to the retention and expansion of a voluntaristic enterprise system. Having stated his desires and his hopes, Mr. Rogers then turns to and lets American capitalists have it right in the solar plexus for what he considers is their failure to understand the philosophical bases of the system which they profess to support.

Mr. Rogers' troubles began when he made a supposedly off-the-record speech to a group of business executives at a Washington, D.C., "round table." Part of his speech was devoted to criticizing those executives for failure to throw at least some of their advertising to publishing media that still continued to fight socialistic and Big Government trends. As he tried to tell the executives, business has a responsibility to maintain a healthy competitive social climate as well as a responsibility to its sales departments and its dividend-hungry stockholders.

He wasn't asking the businessmen to boycott "liberal" newspapers and magazines of large circulation which are admittedly the best advertising media when it comes to marketing widgets,

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gadgets, and buy-now-pay-later trips around the world. But he did think it shortsighted of the executives to let struggling pro-business journals go down the drain for lack of "institutional" advertising nourishment. Without a thriving pro-business press, the institution of the free market is in danger of being enfeebled, and with its enfeeblement the sales of widgets, gadgets, and trips around the world would automatically shrink.

The Secret Is Out

Mr. Rogers' "secret" speech didn't remain secret for very long. A memorandum designed for executives who couldn't attend the meeting fell into the hands of Barry Goldwater, who was so impressed with it that he had it printed in the *Congressional Record.* Next, *Human Events* printed it and offered reprints. Then it appeared in *Vital Speeches.* Altogether, two million copies of it have been made and distributed. The "left," of course, yelled that Mr. Rogers was trying to interfere with the editorial integrity of great newspapers by advocating that "advertising pressures" be brought to bear on them. Mr. Rogers retorted that people have the right to use their money as they see fit, and that a businessman owes it to his stockholders to try to buy a healthy business climate just as much as he owes it to them to sell goods. But the retort was drowned out by the chorus from the "left." His own paper disclaimed responsibility for his views, and the business community remained silent when he was forced to quit his job.

Mr. Rogers is not a bitter man, but all of this has left him a bit piqued, to say the least. In *The End of Free Enterprise* he accuses the business community of timidity and of failing to understand its own predicament. He wonders why businessmen subsidize committees which underwrite the distribution of textbooks that advocate Marxian tax policies and super-Keynesian spending programs. He criticizes businessmen for giving big donations and bequests to universities whose economic and political "science" departments are against the free enterprise system. He wonders why the money spent on "public relations" by business buys so little in terms of fostering a salubrious competitive climate. Discussing the efforts of the General Electric Company to defend its right under the First Amendment to explain its wage policies to union members, Mr. Rogers wonders where the other big corporations were when the National Labor Relations Board attempted to silence GE. The GE fight was

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their fight, too, he says, but only the Chrysler Corporation seemed to realize it.

Above all, Mr. Rogers criticizes business for failure to anticipate the government in attempting to solve problems of unemployment, "technological illiteracy," and so on. He says the "public relations" of business "does not relate."

NAM Program Provides Help for Drop-Outs

Much of what Mr. Rogers says about business timidity is all too true. But some things have been changing recently. The National Association of Manufacturers, which Mr. Rogers criticizes for following bland policies calculated to offend nobody, has recently decided to run its own pilot programs designed to make high school drop-outs employable. The NAM has been picking delinquent kids off the streets of Harlem, giving them intensive schooling, and getting them jobs when they prove themselves capable of handling them. The NAM cannot wipe out the problem of the "unemployables" all by itself, but it hopes to "sell" its drop-out education program to business organizations in Chicago, Indianapolis, and Peoria. At last reports the NAM idea had been taken up by some Chicago industrialists. There is no reason why business should not train its own personnel, and many of our drop-outs are good material.

Mr. Rogers thinks the members of the American Medical Association had Federal Medicare thrust upon them because they were on the freight train when it came to proposing practical voluntary alternatives to Medicare. He notes that the doctors did come up with an "eleventh-hour" alternative, but by this time Congress had decided to act for itself. "The lesson," says Mr. Rogers, "is this: If *you* don't meet all of the needs as they develop, the government will." Thus he serves notice on the AMA to forestall a Federal adventure in providing "kiddie-care" by coming up with a voluntary kiddiecare plan that will make Congressional action unnecessary.

The Independent Sector

Finally, Mr. Rogers criticizes business for not being more nimble in telling its own great story. Businessmen, as he points out, have created and conducted United Funds all over the country, which "have kept the Federal government and even the local governments out of much of the welfare business." Business has donated millions to the private colleges and universities. Its support of the arts has actually been prodigious. It has provided "medical insurance for employees to such

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an extent that the government has never even considered medical aid for the workingman."

All of this has been part and parcel of preserving an atmosphere of voluntarism that enables free enterprise to flourish. But the professional public relations experts whom business employs to tell its story haven't dramatized the actual accomplishments of what Richard Cornuelle calls the "independent sector" in meeting social needs.

Mr. Rogers' criticisms of the business community are offered in a constructive mood. The man is a friend of business. He is tired of seeing businessmen blush and stammer when they are called "buccaneers." Frankly, Mr. Rogers likes buccaneers; he only wishes we had a few more of them around. ◈

▸ THE MOST OF MALCOLM MUGGERIDGE (New York: Simon and Schuster, 1966, 367 pp., $5.95)

Reviewed by Robert M. Thornton

THE SUBJECTS of this sparkling collection of short pieces by the British critic run the gamut from Kennedyism, pornography, and the Christian churches to credulity, Shakespeare, and the BBC; and from the pen of this free-swinging journalist they make for delightful reading.

Just where MM stands in the political spectrum is not clear from the book under review; considering the swipes at Mr. Goldwater and the late Senator Joe McCarthy, he is certainly not a member of what is called in our country the "radical right." But then he turns his guns on Lord Snow, the Fabians, and the admirers of Joe Stalin and the Russian Revolution. The value of a fellow like Muggeridge is his willingness to speak out disinterestedly against any and all men whenever, in his opinion, they err grievously. He has not sold himself to a party or to an ideology; like H. L. Mencken, he spares no one.

What will endear Muggeridge to all enemies of modern "liberal" orthodoxy is his unceasing assault on its underlying premise: the idea that man is really a good sort, you know, nothing wrong with him that a better environment and all that won't take care of nicely.

Muggeridge – on the side of the angels here, if not elsewhere – comes out strongly for the good Christian doctrine that man is a flawed creature who falls far short of perfection. "To proclaim a kingdom of heaven on earth," writes Muggeridge, "is both deceptive and intrinsically absurd. The maintenance of such a notion requires mental gymnastics so extreme and so strenuous that they usually produce dementia."

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Since all men and all human institutions are imperfect, none is beyond criticism: "In a healthy, civilized society everyone and everything should be open to ridicule. Indeed, I would go further and contend that the degree of health and civilization in any given society bears a direct relation to the degree to which this principle operates. Taboos, where humor is concerned, are an admission of doubt, and derive from a sense of weakness and insecurity. The truly religious take no offense when attention is drawn to the absurdity necessarily inherent in the dogmas to which they subscribe and the ceremonies in which they participate. Protests invariably come from the conventionally religious, from the formalists for whom the dogmas and the ceremonies constitute the whole content of their faith. It is the same with politicians. Those who most object to being ridiculed have least confidence in the policies they advocate. It is the same with moralists. If they complain that some cherished principle is blasphemed by the humorous treatment of its application, then it is certain that in their hearts they doubt the principle's ultimate validity."

"Worldliness," Muggeridge writes elsewhere, "is by its nature, a highly romantic attitude; only mystics know how to be skeptical." And a "skeptical turn of mind . . . is induced only by holding fast to truth."

At a time when so many intellectuals are trying to outdo each other in describing the sartorial splendor of the emperor, it is a great pleasure to read one who with fine humor tells the awful truth. "There is," declares Muggeridge, "nothing serious under the sun except love of fellow mortals and of God." ◈

▸ *FAULKNER IN THE UNIVERSITY* edited by F. L. Gwynn and J. L. Blotner, New York: Vintage Books, 1965, 294 pp., $1.65.

Reviewed by Robert M. Thornton

WILLIAM FAULKNER served as writer-in-residence at the University of Virginia from February to June in 1957 and 1958; and this book contains his lectures together with a transcript of the ensuing discussions. "The first attraction of such materials," Edmund Fuller has written, "is immediacy. We feel a direct communication, the presence of the living person through the spoken word in spontaneous talk. Also we get an insight into the creative process — not the blueprint of a process that would fit anybody else, of course, but the disclosure of how one skilled man worked at his craft."

Early in his career Faulkner be-

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came an idol of avant-garde writers and political "liberals," but these turned away as they perceived "the essential conservatism latent in his work and specific in his statements." His stand on the Negro situation, for instance, put him in the doghouse not only with Southern segregationists, but also with Northern radicals who would bring about integration at the point of a gun. Faulkner sympathized with the plight of the Negro, but he was not so sentimental as to think that mere legislation would provide the solution. Rather than force, Faulkner saw persuasion and education as the means to the desired end. He reminded Negroes and their friends that responsibility goes hand in hand with rights, and he reminded his fellow Southerners of their duty to bring an end to the injustices suffered by Negroes in their communities.

Faulkner was strongly opposed to "the mythology that one single individual man is nothing, and can have weight and substance only when organized into the anonymity of a group where he will have surrendered his individual soul for a number." One best combats collectivism, he said, by resisting the pressures to relinquish individuality. He believed that the "individual is more important than any mass or group he belongs to. That the individual is always more important than any state he belongs to. That the state must never be the master of the individual, it is the servant of the individual. That . . . to retain that superiority over the state, the individual must be independent of the state, he mustn't accept gratuity from the state. He mustn't let the state buy him by pensions or relief or dole or grant of any sort."

Faulkner, unlike many of his fellow writers, perceived the tragic element in the human situation. Men are often treated pretty roughly by fate, but this is no reason to regard man as a mere pawn in the hands of forces beyond his control. For man does have freedom of choice; he is thus a responsible creature and as such can find meaning in his existence. Man, Faulkner affirmed, will not merely endure; he will prevail. ◈

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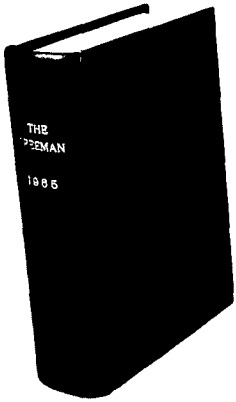

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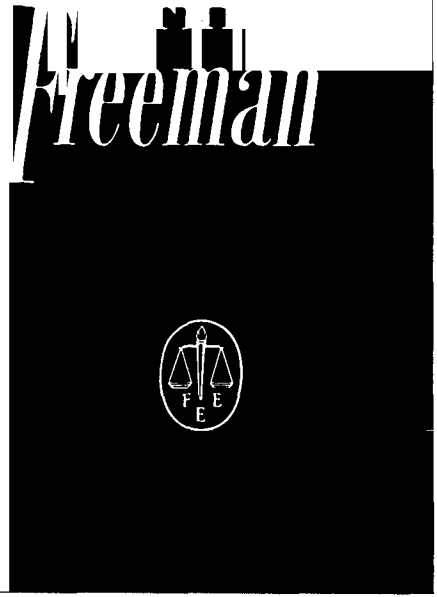

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■ For no one would say that a man was happy who had no fortitude, no temperance, no justice, no prudence, but was afraid of the flies that flew around him; nor would abstain from the meanest theft if he was either hungry or dry, or would murder his dearest friend for a farthing; and also was in every particular as wanting in his understanding as an infant or an idiot. These truths are so evident that all must agree to them. . . . Let us therefore be well assured that every one enjoys as much happiness as he possesses virtue and wisdom, and acts according to their dictates. . . . It is evident that government must be the best which is so established that every one therein may have it in his power to act virtuously and live happily.

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